DOCUMENT RESUME

ED 345 434 EC 301 195

TITLE	Individuals with Disabilities Education Amendments of 1991. Report To Accompany H.R. 3053; Including Cost Estimate of the Congressional Budget Office. Committee on Education and Labor, House of Representatives, 102d Congress, 1st Session.
INSTITUTION	Congress of the U.S., Washington, D.C. House Committee on Education and Labor.
REPORT NO	House-R-102-198
PUB DATE	11 Sep 91
NOTE	70p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC03 Plus Postage.
DESCRIPTORS	American Indians; At Risk Persons; *Disabilities; *Early Intervention; *Educational Legislation; *Federal Legislation; Government Role; Handicap Identification; Infants; Military Personnel; Parent Participation; Preschool Education; Public Policy; Staff Development; Toddlers; Transitional Programs
IDENTIFIERS	*Individuals with Disabilities Education Act

ABSTRACT

This report by the House of Representatives Committee on Education and Labor presents recommended 1991 amendments to the Individuals with Disabilities Education Act. Reauthorization of Part H (the Infants and Toddlers with Disabilities Program) is recommended, with several amendments relating to: (1) transition from early intervention programs to preschool programs under Part B; (2) parental participation in decision making; (3) personnel development; (4) comparability of services for military dependents; (5) provision of services for children who reside on reservations; and (6) outreach to at-risk and underserved populations. Separate sections of the report present the background and need for the legislation; an explanation of the bill and Committee views; an oversight report; a cost estimate; an inflationary impact statement; a section-by-section analysis; and changes in the existing law (identified within the full text of the original). (DB)

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102D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
102-198

ED345434

INDIVIDUALS WITH DISABILITIES EDUCATION AMENDMENTS OF 1991

SEPTEMBER 11, 1991.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FORD of Michigan, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H.R. 3053]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 3053) to amend the Individuals with Disabilities Education Act to strengthen such act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

I. SUMMARY

In reporting H.R. 3053, the Committee proposes to reauthorize Part H—the Infants and Toddlers with Disabilities program—of the Individuals with Disabilities Education Act for 3 years with several amendments to the Act. Amendments relate to: (1) transition from early intervention programs under part H to preschool

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programs under part B; (2) parental participation in decision-making; (3) personnel development; (4) comparability of services for military dependents; (5) provision of services for children who reside on reservations; and (6) outreach to at-risk and underserved populations.

II. Background and Need for the Legislation

LEGISLATIVE HISTORY

The Individuals with Disabilities Education Act (hereinafter referred to as IDEA or "the Act"), is the new name established by P.L. 101-476, for legislation previously referred to as the Education of the Handicapped Act. IDEA includes parts A through H. Part A includes general provisions and definitions. Part B of the Act, the State formula-grant program, was established by P.L. 94-142, The Education for All Handicapped Children Act of 1975. This Act strengthened and coordinated pre-existing Federal programs and requirements for children and youth with disabilities. Part B of the Act mandates a free appropriate public education for all children with disabilities and ensures procedural protections.

The Act also includes various discretionary grant programs, which are now authorized in Parts C through G of the Act. Many of these programs were enacted prior to the State grant program, and in response to different and specific concerns. These programs support research and demonstrations, dissemination of information, technical assistance, and training. The common theme of these programs is the improvement of early intervention services to infants and toddlers with disabilities and special education and related services to children and youth with disabilities.

The discretionary programs under parts C through G have been recently authorized through fiscal year 1994, by P.L. 101-476, The Education of the Handicapped Act Amendments of 1990.

In addition to amending the State incentive grant program under Section 619 of Part B to strengthen incentives for States to serve all children with disabilities from 3 through 5 years of age, P.L. 99-457 added a new part H, the Infants and Toddlers with Disabilities program. Part H is intended to assist the States to develop and implement statewide, comprehensive, coordinated, multidisciplinary, interagency programs of early intervention services for infants and toddlers with disabilities and their families. The statewide systems required under this part include a minimum of 14 specific components. The law specifies that services be provided under an Individualized Family Service Plan and mandates the creation of State Interagency Coordinating Councils.

Part H includes strict time lines for the development and implementation of services to infants and toddlers with disabilities. States are given three years to plan and adopt policies establishing this system. In the fourth year, States are required to have the system in place and provide some but not all early intervention services. In the fifth year, States are expected to provide all early intervention services to all eligible infants and toddlers and their families. Part H is authorized through FY 1991.

HEARINGS AND TESTIMONY

The Subcommittee on Select Education held hearings on April 11, April 12, and May 6, 1991 to consider the reauthorization of the early intervention and preschool programs under the Individuals with Disabilities Education Act.

Testifying at the April 11, 1991 hearing in Washington, D.C. were: Honorable Mike Espy, a Representative in Congress from the State of Mississippi; Ms. Elizabeth Williams, Parent, the Mississippi Band of the Choctaw Indians, accompanied by Ms. Pam Dalme, Director of Choctaw Special Education; Ms. Trish Thomas, Parent from the Laguna/Otoe-Missiouria Tribes in New Mexico; Gayle and Steve Underdown, Parents from Hickory, North Carolina; Ms. Deborah Booth, Special Projects Manager, East Coast Migrant Head Start Project; Ms. Carol Ann Baglin, Director, Maryland Infants and Toddlers Program; Dr. Jane Wiechel, Director, Division of Early Childhood Education, Ohio State Department of Health; Dr. Robert Davila, Assistant Secretary of the Office of Special Education and Rehabilitative Services, U.S. Department of Education; and Ms. Deborah Sosa Tisdale, Member of the Federal Interagency Coordinating Council in Tacoma, Washington.

On April 12, 1991, in Washington, D.C., the Subcommittee heard testimony from the following witnesses: Dr. James Gallagher, Carolina Institute for Child and Family Policy, University of North Carolina; Dr. Samuel Odom, Vanderbilt University; Lieutenant Colonel F. Christian Sautter, West Point; Ms. Virginia View for Ms. Ruth Rucker, Low-Income and Minority Parent Empowerment Task Force, Mental Health Law Project; Ms. Lourdes Putz, Parent, and Dr. Mary Beth Bruder, Director Family Support and Early Intervention, MRI Institute for Human Development, representing the Consortium for Citizens with Disabilities; Dr. Brian McNulty, the National Association of State Directors of Special Education; George Jesien, President, International Division for Early Childhood, Council for Exceptional Children; Robin McWilliam, the Frank Porter Graham Child Development Center, University of North Carolina at Chapel Hill; and Gene Wilhoit, Executive Director, National Association of State Boards of Education.

Testifying at the May 6, 1991 hearing at the Clara Barton High School in Brooklyn, New York were: Tom Neveldine, Assistant Commissioner, Office for Education of Children with Handicapping Conditions, New York State Education Department; Dr. Allan Noonan, Associate Commissioner for New York City Affairs, New York State Department of Public Health; Steve Held, Executive Director, Just Kids Early Childhood Learning Center, Middle Island, New York; Dr. Dan Griffith, Development Psychologist, the National Association for Perinatal Addiction, Research, and Education; Dr. William Scarbrough, Associate Director for Research, National Center for Children in Poverty, Columbia University; Mr. Bernard Charles, Sr. Vice President, Quality Education for Minorities Network, Washington, D.C.; Delia Pompa, Director of Education, Adolescent Pregnancy Prevention and Youth Development of the Children's Defense Fund, Washington, D.C.; Dr. G. Gordon Williamson, Director, Coping Project, JFK Center for Infants with Disabilities, Rutgers University; Ms. Marji Erickson, Associate in Pediatrics,

University of Massachusetts Medical Center; Felice Burns, Board of Directors, Citizens Committee for Children of New York; Ms. Susan Sokol, Director, Day Care and Giant Step Program, Hebrew Institute for the Deaf and Exceptional Children, accompanied by Ms. Henna White, Parent; and Ms. Jane E. Rubinstein, Founder and Vice Chair, New York State Parent Committee for the Education of Children with Handicapping Conditions and Legislative Chair, Parents' Association, North Shore University Hospital Preschool and Infant Development Program.

FULL COMMITTEE ACTION

On July 30, 1991, the full Committee met in open legislative session, discharged the Subcommittee on Select Education from further consideration of H.R. 3053, and ordered reported the bill, with an amendment in the nature of a substitute, by voice vote.

III. Explanation of the Bill and Committee Views

The bill includes several changes to parts B and H of the Act designed to facilitate the development of a comprehensive "seamless" system of services for children, aged birth to 5, inclusive, and their families which will ensure: (1) a smooth transition for children moving from early intervention programs under part H to preschool programs under part B and (2) the delivery of appropriate services.

DEFINITIONS

Section 3 of the bill amends the definition of "children with disabilities" in section 602(a)(1) of the Act to provide discretion to States to include children aged 3-5, inclusive, who are "experiencing developmental delays," as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development and who, by reason thereof, need special education and related services.

The Committee recognizes that some young children experiencing developmental delays do not fit neatly under any particular category listed in section 602(a)(1) of the Act and yet clearly have a disability. Rather than forcing an educational agency to mislabel a child with a disability at such an early age, the amendment provides the option to use a more developmentally appropraite category.

The intent of the amendment is not to expand or diminish the population of children eligible under part B, but rather to provide a State with the discretion to ensure that all eligible preschoolers are served and that children are not inappropriately labeled.

The language in the amendment is comparable to a component of Part H's definition of "infant or toddler with a disability". The provision should not be construed, however, as requiring a State to use the same criteria for 3 to 5 year-olds as it uses for infants and toddlers. Thus, a State may develop different or more stringent criteria for children aged 3-5, inclusive, than it uses for infants and toddlers so long as the criteria do not deny eligibility to a child

who would otherwise be eligible under other categories included in section 602(a)(1) of the Act.

The use of the phrases "communication development" in lieu of "language and speech development," "social or emotional development" in lieu of "psychosocial development," and "adaptive development" in lieu of "self-help skills" is explained in the portion of this report pertaining to Section 12 of the bill (definitions under part H).

SETTLEMENTS AND ALLOCATIONS

Section 4 of the bill amends sectoin 611(c)(2)(A)(i)(II) of the Act by increasing the amount that States can use for administrative costs under Part B from $350,000 to $450,000.

It is the Committee's intent that this amendment apply to Part B grants awarded to States on or after July 1, 1991.

IMPROVING SERVICES TO CHILDREN ON INDIAN RESERVATIONS

Over the past two years, two major studies, along with staff work and reports from tribes, have documented the following major problems in providing services to children with disabilities who reside on Indian reservations served by Bureau of Indian Affairs (hereinafter BIA) funded schools:

—a lack of clarity with respect to which entity, the BIA or the State, is responsible for each student or child;

—a lack of child-find, leading researchers to project a population of up to 90,000 students who have not been identified and who are not receiving services; and

—inadequate services and individualized education programs (IEPs) or inappropriate IEPs based upon available, not "needed" services.

The Committee has undertaken major amendments to improve the provision of services to Indian children with disabilities. The bill reduced and clarified the responsibility of the BIA to all students enrolled in BIA funded schools. Also, specifically included are students with disabilities in school-affiliated preschool programs (whether regarded under BIA rules as formally enrolled or counted for purposes of the Indian School Equalization Program fund distribution or transportation formulas) in States where such programs are required for accreditation (such as New Mexico) and such accreditation has been sought and obtained by the school in question prior to this amendment. The Department of the Interior would receive a 1 percent set-aside under the Act, and all students covered by this provision, including the specified preschool children, would be counted for purposes of distribution of this money.

The Committee wishes to make clear that all other students eligible for services under the IDEA, Indian and non-Indian, who reside on any reservation would be the responsibility of the State program, whether ages 5–21 enrolled in a public school program or preschool children aged 3–5, inclusive. This includes preschool children in States not covered under the preceding paragraph.

The Committee has transferred a .25 percent set-aside from the BIA's current authorization and established a program for tribal child-find, identification, and referral. Tribes on reservations with

BIA funded schools would be eligible to receive formula grants to conduct child-find, indentification, and referral for children ages 3–5, inclusive. Referrals could be to the State, BIA, Indian Health Services (IHS), private or tribal providers, or other providers, as appropriate. It is the first time tribes have been involved in the IDEA program directly, but it is hoped that they will have an affirmative interest in the child-find and identification process.

Several clarifications are necessary. First, the .25 percent set-aside funds would be transferred to the BIA from the Department of Education for distribution to the tribes under the statutorily established formula. The BIA is to pass through all of these funds to the tribes; it is not to take any for administrative purposes. Administrative costs will be handled by the BIA as part of its education program. Second, these funds are for child-find and initial screening and identification, and referral to the proper authorities for necessary services and may also be used for parent training. The tribes should not use these scarce resources to provide direct services when States, IHS, and other entities exist for this purpose. Third, the IHS is in no way relieved of its resonsibility to provide all services and procedures to which Indian students would be entitled due to their status as Indians, and the Committee expects IHS's full cooperation and coordination in this effort. This will be one area of particular oversight by the Committee during implementation. Finally, tribes may, at their own option, decide that the best means of service delivery is the development of consortia for the purposes of administering this provision. Such consortia could be with other tribes or tribal entities, or with States or other entities. This could particularly hold in instances where the tribe generates small funds under the formula. Such consortia should receive every assistance where requested.

Finally, in an effort to make the best use of the expertise of the BIA, the Committee has very clearly required the BIA to coordinate information between Federal agencies and BIA components and to provide technical assistance to tribes and States to enable them to carry out their responsibilities. At the least, this would consist of a compilation of available resources, with contacts and descriptions of services, which would receive wide distribution within the tribal, disabled, and education communities. However, the Committee anticipates and hopes that the BIA will exceed the minimum and also provide coordinated efforts and access to its employees where requested and where it will have a beneficial effect. Also, the reporting requirements on the BIA, with respect to its Department of Education grant, have been augmented. This technical assistance requirement also extends to part H, the program for infants and toddlers.

The Committee also requires the Secretary of Interior to establish an advisory board under the BIA to assist in the coordination of services within BIA and with other local, State, and Federal agencies in the provision of education for Indian infants, toddlers, children, and youth with disabilities. The board will be composed of individuals involved in, or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State

and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils in States having reservations, and other members representing the various divisions and entities of the BIA

PROVIDING A COMPREHENSIVE DELIVERY SYSTEM FOR CHILDREN BIRTH THROUGH FIVE YEARS OF AGE AND THEIR FAMILIES

The bill includes a series of amendments designed to promote a seamless system of services for children with disabilities, aged birth to five, inclusive. The Committee finds that it is critical that there will be no gap in services when a child turns three, and that the services continue to be appropriate and family-focused.

Section 5 of the bill amends section 613 of the Act to ensure that the comprehensive system of personnel development under part B is consistent with the comprehensive system of personnel development under part H.

This section adds a new requirement to the State application directing State educational agencies to set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program under part H who will participate in preschool programs under part B, including a method of ensuring that when such a child turns three (thereby becoming eligible for a free appropriate public education), an individualized education program or, consistent with section 614(a)(5) and section 677(d), an individualized family service plan, has been developed and is being implemented by the child's third birthday.

Section 6 of the bill permits, consistent with State policy, local educational agencies and intermediate educational units, with the concurrence of the parents or guardian, to use individualized family service plans (IFSPs) described in section 677(d) of part H for children aged 3 to 5, inclusive, instead of individualized education programs (IEPs) described in section 614(a)(5) of part B.

The Committee considers this amendment to be one of the most critical provisions in the bill. It is imperative that educational agencies provide appropriate services to children aged 3 to 5, inclusive. Early intervention research indicates that certain types of services required by preschoolers with disabilities are comparable to the types of services required by infants and toddlers with disabilities that are included in their individualized family service plans. In particular, the research indicates that one of the most consistent factors in the most successful preschool programs is family support and involvement. If a program enables a family to address the particular needs of a preschooler and access services, it is much more likely that the child will make significant gains..

The Committee urges State educational agencies, local educational agencies, and intermediate educational units to continue to provide the types of services set out in an IFSP to a preschooler where the family concurs that such services would be appropriate.

In particular, because of the similarity between social work services (which are related services under part B) and family training, counseling, home visits, and service coordination (which are early intervention services under part H) the Committee urges the con-

tinuation of family training, counseling, home visits, and service coordination.

PRESCHOOL GRANTS

Section 7 of the bill amends the preschool grant provision (section 619 of the Act) to permit a State to use not more than 20 percent of its preschool grant for planning and development of a comprehensive delivery system, for direct and support services for children with disabilities, aged 3 to 5, inclusive, and at the State's discretion, to provide a free appropriate public education, in accordance with the Act, to 2-year old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H.

The Committee intends that these funds, as well as funds authorized under part H, may be used, among other things, to support planning and other activities by the Interagency Coordinating Council, required by section 682 of part H of the Act, designed to effectuate this seamless system of service delivery.

In addition, the bill permits a local educational agency or intermediate educational unit, if consistent with State policy, to use section 619 funds to provide a free appropriate public education, in accordance with part B, to 2-year old children with disabilities who will reach age 3 during the school year, whether or not such childen are receiving or have received, services under part H.

The bill also specifies that part H does not apply to any child with a disability receiving a free appropriate public education, in accordance with part B, with funds received under section 619.

EARLY EDUCATION DEMONSTRATION PROGRAM AND CHILDREN AT RISK

Section 8 of the bill amends the demonstration program for children with disabilities (section 623 of the Act) to authorize the use of funds for programs that focus on individuals who are at risk of having substantial developmental delays if early intervention services are not provided.

The Committee is disappointed that the fiscal crisis faced by many States is curtailing efforts to serve infants and toddlers who could be in the "high probability" category or are "at risk," especially given the large numbers of drug-exposed children now entering our school system. The purpose of the amendment is to ensure that discretionary programs authorized under section 623 of the Act may include these children. Projects may include activities addressing identification of risk factors and populations, service needs, effective intervention strategies, incidence and prevalence, as well as system planning and the coordination of all available resources for children who are at risk of having substantial developmental delays if early intervention services are not provided to them and their families.

Section 8 also creates the authority for the Secretary of Education to fund up to 5 competitive State planning grants for the purpose of establishing a statewide, interagency, multidisciplinary, coordinated system to identify, track and refer for appropriate service, all categories of children who are biologically and/or environmentally at risk of having developmental delays. A new authority

is added that requires the secretary to fund up to 5 state projects to establish demographic data on all at-risk populations and define a statewide system for the identification, tracking, and referral of at-risk children to appropriate services, including early intervention services. It is the Committee's intent that these at-risk projects be coordinated with all existing similar efforts under federal programs, such as Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT), Maternal and Child Health Head Start, and IDEA. It is intended that these at-risk projects be, at a minimum, coordinated with the early intervention system under the part H program, and preferably under the purview of the Interagency Coordinating Council and the lead agency. The Secretary shall require assurances to this effect as needed.

Although no changes are made to part H concerning infants and toddlers who are "at risk", the Committee encourages States to explore all available options to serve these children. Specifically, the Committee encourages Governors to appoint agencies and other representatives whose primary concern is children who are "at risk" to the State Interagency Coordinating Council. Further, States are encouraged to provide technical assistance to the EPSDT program so that personnel providing EPSDT may be fully aware of the entire population eligible or potentially eligible under part H.

The Committee urges those States that do not include infants and toddlers who are "at risk" among the eligible part H population to establish a mechanism to ensure that such children are referred to the part H program in a timely manner for a part H assessment when it is determined that they may be eligible for part H services. The Committee further encourages States to implement aggressive child-find, public awareness, and outreach to families of children who might not initially have met eligibility criteria for the part H program but who may subsequently be identified as eligible for such services.

The bill also authorizes the use of funds to facilitate and improve outreach to low-income, minority, rural, and other undereserved populations eligible for assistance under parts B and H. The Committee strongly believes that special efforts, including the development of new strategies, must be made to ensure that parents of all children eligible for services are made aware of the opportunities available to their children.

The bill also authorizes the funding of "systems change" projects similar to those currently authorized under section 624 pertaining to children with severe disabilities. The amendment authorizes the funding of Statewide projects, in conjunction with a State's application under part H and a State's plan under part B, to redesign the delivery of early intervention services to infants and toddlers with disabilities and their families, and special education and related services to preschool children with disabilities and their families from segregated to integrated environments.

The Committee includes this new authority in order to enable the Secretary to assist programs, which have traditionally provided services to infants and toddlers with disabilities and their families in isolation from infants and toddlers without disabilities, to begin to provide early intervention services in natural environments, in-

cluding the home and community settings in which children without disabilities participate.

GRANTS FOR PERSONNEL TRAINING

Section 9 amends Section 631(b) of the Act to authorize the Secretary to make up to 5 grants to States or other entities to support the formation of consortia for the purpose of providing opportunities for career advancement and competency-based training through higher education in special education, related services, and early intervention for current and future workers at public and private agencies that provide services to infants, toddlers, children and youth with disabilities. A technical assistance grant and evaluation of the projects are also authorized under this provision.

The recruitment, training, and retention of personnel continues to be a problem in the provision of special education and early intervention services to individuals with disabilities. With the addition of the early intervention program under IDEA in 1986, the lack of qualified personnel entering this workfore became more acute and continues to adversely impact the provision of services. The personnel training initiative (e.g., demonstration grants and technical assistance) provides an opportunity to train and retain workers who currently hold entry level or para-professional positions in public and private agencies that serve these children with disabilities and have demonstrated a commitment to remaining in the special education and related services field.

The Committee is aware of an internationally-recognized public-private partnership which promotes the career advancement of workers in the disability field to thereby improve the care and quality of life of children and adults with disabilities. This consortia has developed a blueprint for the implementation of curricular, programmatic and workforce research initiatives in the disability field which can be a model for this type of public-private partnership.

Section 9 further amends Section 631 of the Act to provide for parent training information programs with the capacity to serve parents of children with disabilities age birth to 5 years, inclusive, with a special emphasis on serving minority parents of children from this age group.

The Committee strongly encourages the Secretary to ensure that every effort is made to identify, with specificity, the initiatives undertaken to involve minority parents of children with disabilities (e.g., working with community-based and cultural organizations). Section 9 requires the Secretary to report the number of parents served who have children with disabilities age birth to 5 years.

PARENT TRAINING CENTERS

Section 10 of the bill increases the authorization level for parent training centers in order to assist them in meeting their expanded authority to address the needs of families with infants and toddlers with disabilities.

It is the Committee's intent that each existing parent training center should receive an additional $50,000 for this purpose, to the extent sufficient funds are appropriated. By increasing the authori-

zation level, it is the intent of the Committee that the centers increase their training activities for parents of children receiving part H services, including activities designed to enhance an understanding of their rights under part H and to impart skills necessary to enable families to facilitate their own child's development.

It is the Committee's intent that any increase received by parent training centers in FY93 and FY94, as provided for under section 9, be directed toward providing services to parents of children with disabilities age birth to 5 years, including minority parents of children with disabilities from this age group.

In addition, funds may be used to impart skills necessary to enable all families to perform service coordination-type services, especially for those families that choose not to take advantage of the service coordination services provision under the Act. It is also the Committee's intent that funds may be used to assist in training parents to become qualified service coordinators for other infants and toddlers with disabilities and their families.

FINDINGS FOR PART H

America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2%, the rate of increase for racial and ethnic minorities is much higher: 38.6% for Hispanics, 14.6% for African-Americans, and 40.1% for Asians and other ethnic groups. By the year 2000, this nation will have 260,000,000 people, one of every three of whom will be either African-American, Hispanic, or Asian-American. Early intervention is a cost effective way of addressing the developmental needs of our most precious resource in a changing society. When implementing part H of IDEA, particular attention must be given to the inclusion and participation of minority and low-income individuals in urban as well as rural areas across the country.

Minority status and poverty are highly correlated with poor maternal, pre- and post-natal health care and nutrition, which in turn, lead to health problems and developmental delays. These sociobiological factors may be exacerbated by institutional inequities which taken together elevate the incidence of disabilities among minorities and the poor.

Since the variables that contribute to the development of special educational needs tend to be cumulative over time, early intervention is a preventive measure about which copious data exists indicating that participation in early intervention programs positively impacts school performance and success. Like preschool programs, and for the same reasons, early intervention is a sound investment for society and benefits not only the participants but taxpayers as well.

DEFINITIONS UNDER PART H

Section 12 of the bill updates the terminology used in section 672 to describe "infants and toddlers with disabilities" and "early intervention services" consistent with the language used by those working in the early intervention field.

The phrase "speech and language development" will be referred to throughout the remainder the Act as "communication develop-

ment." The intent of this change is to update the terminology rather than to change current policy. Thus, the term "communication development" is intended to include language, speech, and hearing.

Communication development includes acquisition of communication skills, during pre-verbal and verbal phases of development, receptive and expressive language, including spoken, non-spoken, and sign language means of expression, the use of augmentative communication devices, and speech production and perception. Communication development also includes oral-motor development, specifically those neuromuscular and structural conditions affecting prespeech oral-motor development, speech sound production, and feeding and swallowing processes. Related to hearing, communication development includes development of auditory awareness, auditory, visual, tactile, and kinesthetic skills, and auditory processing for speech or language development.

Throughout the remainder of the Act, the phrase "social or emotional development" will be used instead of the phrase "psychosocial development"; the phrase "adaptive development" will be used instead of the phrase "self-help skills".

The Committee is concerned that the existing definition of "physical therapy" in the regulations implementing part H has not kept pace with advances in the field. The current definition lacks a clear scope of practice for physical therapists in the pediatric setting. The definition does not currently reflect the physical therapist's role in the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. Additionally, the current regulation is unclear with respect to individual and group treatment, as well as consultation services. The Committee urges the Department to revise its definition of "physical therapy", as it appears in the regulations.

The bill retains the term "case management" in the definition section but in subsequent sections of the Act uses the term "service coordination" in lieu of the term "case management". The Committee decided to change the references in other sections of the legislation because it agrees with parents that "they are not cases and do not need to be managed." The intent of this provision is not to change the policy set out in the current definition of "case management" in the regulations nor to affect in any way the authority to seek reimbursement for services provided under Medicaid or any other legislation that makes reference to "case management" services.

Section 12 also clarifies "early intervention services" by adding vision services, assistive technology devices and assistive technology services, and transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive early intervention services. The inclusion of these specific services simply codifies current policies adopted by the Department of Education.

The Committee recognizes the critical importance of assistive technology in liberating many infants and toddlers with disabilities and their families from barriers encountered in all aspects of daily

living, and in significantly enhancing learning and development. The Committee has been made aware of many instances in which the provision of assistive technology has dramatically altered prospects for a child's future—where access to technology has resulted in labels being dropped, in the provision of opportunities in integrated environments, in increased confidence and ability of the child, and in changed perceptions of the child by the family and others.

Assistive technology is currently included in the regulations for the Part H program. The Committee has added assistive technology services and devices to the definition of early intervention services under Section 672(2) in order to clarify that these important supports are included as part of early intervention services for those infants and toddlers and their families who can benefit, and thus ensure their provision when appropriate.

Current regulations promulgated by the Department of Education specify that early intervention services under part H include necessary transportation to enable a child and the child's family to receive early intervention services. The Committee endorses the definition of transportation set forth in the Department's current regulations (34 CFR section 303.23), which includes reimbursement for the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and related costs (e.g., tolls and parking expenses). Thus, the inclusion of transportation services is not intended to expand current obligations.

The Committee concurs with the Department of Education's interpretation regarding the use of sliding fee scales set out in its regulations (and accompanying analysis) implementing part H. This policy is consistent with the provisions of P.L. 99-457. The Committee urges States to undertake an in-depth analysis, including studying the experiences of other States, before adopting policies regarding sliding fees.

Furthermore, the bill clarifies that "qualified personnel" include family therapists, orientation and mobility specialists, and pediatricians and other physicians to the list of "qualified personnel". These clarifications, again, codify current policies adopted by the Department of Education and thus are not intended to expand current obligations.

The Committee wishes to clarify that "medical services" provided by pediatricians and other physicians are considered "early intervention services" only when they are provided for diagnostic or evaluation purposes. "Health services" include communication by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services. The term does not include services that are surgical or purely medical in nature; nor does it include devices necessary to control or treat a medical condition or medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children. (See 34 CFR Section 303.13).

The Committee agrees with the "note" that follows section 303.13 of the regulations:

> The definition in this section distinguishes between the health services that are required under this part, and the medical-health services that are not required. The IFSP requirements in subpart D provide that, to the extent appropriate, these other medical-health services are to be included in the IFSP, along with the funding sources to be used in paying for the services. Identifying these services in the IFSP does not impose an obligation to provide the services if they are otherwise not required to be provided under this part.

With respect to the inclusion of family therapists in the legislation, the Committee recognizes that family therapists provide services that are included within the part H program and that they do so from a family systems perspective. The Committee recognizes that some institutions of higher education offer distinct degrees for "marriage and family therapy" and that some States include separate certification or licensure requirements for such individuals. Therefore, it is the Committee's intent that professionals with the title "marriage and family therapists" may be included in the part H program as "family therapists."

The inclusion of family therapists among the list of qualified personnel should in no way be construed to affect State certification or licensure policies; nor should the addition be construed in any way to diminish the role of other qualified professionals, such as psychologists, school psychologists, social workers, and others currently included in the Act, in providing any early intervention services under the Act.

The inclusion of family therapists is in no way intended to broaden the scope of family services that should be included under part H. Consistent with current policy, services that a family may need, but do not relate to the developmental needs of the infant or toddler with a disability, are not early intervention services under part H.

Finally, the bill includes the policy in the regulations regarding where services are provided to infants and toddlers with disabilities and their families: to the maximum extent appropriate, infants and toddlers must be provided early intervention services in natural environments, including the home, and community settings such as day care centers, in which children without disabilities participate.

The term "natural environments" refers to settings that are natural or normal for age peers who have no apparent disability. The descriptor "to the maximum extent appropriate" is not meant to qualify the appropriateness of the natural environment as the primary setting for the child. Rather, it is intended to allow flexibility and individualized programming for the infant or toddler with a disability. For example, the primary natural environment for an infant or toddler is the home. Where group settings are utilized, the infant or toddler with a disability should be placed in groups with age peers without disabilities, such as play groups, day care centers, or whatever typical group setting exists for infants and toddlers without disabilities.

DIFFERENTIAL FUNDING

Currently, the Act specifies certain criteria that a State must satisfy in order to continue to be eligible for assistance under part H. For years one through three, the Act specifies that a State must plan and adopt policies consistent with the establishment of a Statewide system. In the fourth year, a State must have in effect a Statewide system, except that with respect to the obligation to provide early intervention services specified in an individual family service plan, the State need only conduct multidisciplinary assessments, develop IFSP's, and make available service coordination services. In the fifth year, the State must have in effect the Statewide system for all infants and toddlers with disabilities.

For FY90, Congress appropriated $79 million for the part H program. For FY91, the appropriation level is $117 million. The 47% increase was included in anticipation that States would be moving from a planning to a service delivery mode. The part H program is forward-funded; thus, the FY91 funds become available on July 1, 1991.

The differential funding provision, included in P.L. 102-52, provides rewards for those States that are on schedule and at the same time allows States that would have dropped out of the program to stay in the program.

The following is a brief description of the provision. In general, those States that are on schedule, i.e., are able to meet their fifth year requirements, will be eligible, starting on July 1, 1991, to receive their full share of the FY91 allocation (and the FY92 allocation) and funds reallotted from States that have requested differential funding. A State's total allocation could not, however, be more than twice the amount it was eligible to receive in the previous fiscal year if it met all requirements for that year.

Those States that have met their fourth year requirements (the system is in effect and the services required for the fourth year are provided to eligible children) but are unable to meet their fifth year requirements at that time will be able to stay in the program if the Governor seeks, on behalf of the State, and the Secretary grants a request for extended participation. Two one-year requests may be granted to each State.

These States will be eligible, starting on July 1, 1991 to submit an application and, if their request for extended participation is granted, receive an amount equal to the amount they received in FY90. In addition, they would be eligible to receive a reallotment in an amount not to exceed the amount they would have received for FY91 if they had been in full compliance, but only if there are funds available after the "full compliance" States have received their reallocation. The same policy would apply in FY92.

Those States that have met their third year requirements (planning and policy development) but have not yet submitted their application for the fourth year of participation and are unable to meet the fourth year requirements will be able to stay in the program if the Governor seeks, on behalf of the State, and the Secretary grants a request for extended participation. Again, two one-year extensions may be granted per State.

These States, which have held off submitting their fourth year application, will be eligible to submit a request for extended participation. If the request is granted, the State would receive an allocation equal to the amount it received for FY89. If a State seeks a second extension from fourth year requirements for the next fiscal year (any time after July 1, 1991), and it is approved, the State will receive an amount equal to the amount it would have been eligible to receive for FY90. States seeking an extension from fourth year requirements are not eligible for a reallotment.

P.L. 102-52 permits a State to receive approval for two one-year extensions, after which the State will be eligible for a grant under part H only if it meets the criteria pertaining to eligibility for fifth and succeeding fiscal years. Thus, once a State takes advantage of the extended participation provisions, it cannot reapply for funding under part H unless it has in effect a Statewide system of early intervention services for all infants and toddlers with disabilities within the State and is serving all eligible infants and toddlers with disabilities and their families.

STATEWIDE SYSTEM REQUIREMENTS

The Committee recognizes that in order to develop a "statewide comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families", States are engaged in many activities related to implementation of the components required by part H.

These system development efforts are consistent with those of other Federal initiatives that call for a change from the traditional focus on separate categorical programs toward one of systems-building at the community level. This "systems approach" to service delivery is designed to eliminate the complex maze that parents have had to negotiate while going from one agency to the next, dealing with each program's funding requirements, eligibility criteria, rules and regulations, and service delivery designs.

The part H program is consistent with this theme of developing community-based systems of family-centered services. Witnesses, and others working in the human services field, have suggested that part H represents a new paradigm for the delivery of all services and supports to individuals with special needs and their families in our communities.

The Committee strongly recommends that States coordinate part H efforts with other system efforts currently under development in States, especially the Children with Special Health Care Needs efforts under the Title V, Maternal and Child Health Block Grant; the National Institute of Mental Health's Child and Adolescent Service System Program (CASSP); Head Start; the Child Care and Development Block Grant; the Early and Periodic Screening, Diagnosis and Treatment Program under Title XIX (EPSDT); and similar efforts under Child Welfare and Technology Assistance.

The Committee cautions that while great progress is occurring in systems development throughout the country, if such coordination does not occur, there is a danger that a new reality could emerge; that is, "multiple systems" instead of "multiple programs" at the

local level. This new reality would be reflected in numerous but unrelated interagency efforts occurring at the community level with all the same agencies as members for each initiative. This is certainly not desirable as it could leave parents in the same position as before, negotiating across systems instead of agencies. It is certainly no time-saver for the agency representatives who must participate in each initiative.

Section 13 of the bill amends the requirements in section 676 of the Act pertaining to the Statewide system. First, the bill clarifies that the comprehensive system of personnel development includes the training of paraprofessionals and primary referral sources. This comprehensive system of personnel development must be consistent with the comprehensive system of personnel development under part B of the Act and may include implementing innovative strategies and activities for the recruitment and retention of early intervention service providers, promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services, training personnel to work in rural areas, and training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program to a preschool program under section 619 of part B.

Further, in order to avoid duplication of effort, the comprehensive system of personnel development under this part must be consistent with that established under part B. It is the Committee's intent that the term "support personnel" under section 613 of the Act include paraprofessionals to ensure the consistency prescribed by this amendment.

The Committee is aware of the overlapping requirements under parts B and H regarding the location, identification, and evaluation of all children with suspected disabilities from birth. The Committee is also aware of other Federal and State programs, such as the EPSDT under Medicaid, that have similar requirements for child-find and evaluation. It is the Committee's expectation that these efforts and other identification efforts will be coordinated to decrease any overlap in the provision of such services. The Committee also intends that, to the extent a State educational agency and the lead agency under part H establish a unified child-find system, the system be consistent with both parts B and H of the Act.

Section 13 of the bill also clarifies that the role of the lead agency includes general administration and supervision of programs and activities receiving assistance under part H and the monitoring of programs and activities used by the State to carry out part H, whether or not such programs or activities receive part H assistance, to ensure that the State complies with the part H requirements. This provision codifies the Department's current policy set out in the regulations implementing part H.

The bill also clarifies the responsibility of the lead agency with respect to the assignment of fiscal responsibility among State agencies. Section 13 specifies that the lead agency is responsible for carrying out the assignment of fiscal responsibility to various agencies made in accordance with the State's application. Section 15 of the bill amends section 678 to require the State to designate an individ-

ual or entity that will be responsible for assigning the financial responsibility among appropriate agencies.

In other words, the State (i.e., the State legislature or the Governor or his or her designee) decides which agencies have financial responsibility, consistent with Federal and State law, and the lead agency is responsible for ensuring that these decisions are carried out.

The Committee expects that this amendment will reflect the particularities of each State's system of governance while at the same time ensuring a single line of responsibility for families to avoid "buckpassing" among agencies.

INDIVIDUALIZED FAMILY SERVICE PLAN

Section 14 of the bill includes clarifications to section 677 of the Act pertaining to the individualized family service plan. First, it recognizes the central role played by families in designing and implementing effective early intervention services for their infants and toddlers with disabilities. Second, it states that the assessment must be family-directed and may, with the concurrence of the family, include an assessment of the family's resources, priorities, and concerns and identification of family preferences, supports, and services necessary to enhance the parents' and siblings' capacity to meet the developmental needs of their infant or toddler with a disability.

Consistent with the clarification to the provision relating to the assessment, the provision in the Act specifying the contents of the IFSP relating to the family is also clarified. The bill replaces the phrase "strengths and needs" with the phrase "resources, priorities, and concerns."

In addition, the bill requires that the IFSP include a statement of the natural environments in which early intervention services will be provided.

Further, the bill adds a new subsection (e) regarding parental consent which provides that the contents of the IFSP must be fully explained to the parents or guardian and requires that informed written consent be obtained prior to the provision of early intervention services. This policy is consistent with the voluntary philosophy of this program and the important role the family plays in the life of the infant or toddler with a disability. This new subsection does not modify section 677(a)(2) which stipulates that the parents or guardian must be an integral member of the multidisciplinary team charged with developing the IFSP.

Section 14 of the bill also amends the provision in the Act that limited the service coordinator (formerly the case manager) to a person from the profession most immediately relevant to the infant's or toddler's or family's needs. Under the amendment, the service coordinator could also be a person who is otherwise qualified to carry out all applicable responsibilities under part H.

For example, social workers and others trained in areas of human behavior and human services may not be "from the profession most immediately relevant to the infant's or toddler's or family's needs" but they are trained to provide case management or service coordination services and therefore are clearly qualified to

provide such services. In addition, a parent may become qualified to perform all of the service functions carried out by a service coordinator and provide the service coordination service for another family if the parent obtains appropriate training by qualified persons.

Parents may want to assume certain responsibilities while retaining a service coordinator provided by the system to provide other aspects of the service. Parent training centers are encouraged to provide training to parents to better enable them to carry out their parental roles.

It is not the Committee's intent that this amendment be construed to require a State to pay a parent to serve as the service coordinator for his or her own child and family in those instances where the parents have rejected all or a portion of the service coordination services available under part H. However, it is the Committee's intent that a State may, at its discretion, decide, as a matter of State policy or practice, to pay a parent to be his or her own service coordinator or reimburse a parent for carrying out certain tasks.

The Committee has received several inquiries regarding the policy of not only specifying the early intervention services required by the infant or toddler with a disability in an IFSP but also including "other services" that are not considered "early intervention services." Specifically, the inquiries concern the nature and extent of the State's responsibility to make available or pay for these "other services."

The Committee supports the policy concerning this issue set out in the current regulations implementing part H at section 303.344 and the note that follows this section. Section 303.344(d) specifies that the IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler and the family. Early intervention services are defined in section 303.12 of the regulations to mean services that are designed to meet the developmental needs of each eligible infant or toddler with a disability and the needs of the family related to enhancing the infant's or toddler's development.

Section 303.344(e) specifies that, to the extent appropriate, the IFSP must also include medical, prevention, and other services that the child needs, but that are not required under this part and, if necessary, the steps that will be undertaken to secure those services through public or private resources.

Section 303.344(e) also specifies that the requirements in the preceding paragraph do not apply to routine medical services (e.g., immunizations and "well-baby" care that are routinely recommended for all children), unless a child needs those services and the services are not otherwise available or being provided.

The note following the regulation makes it clear that these other services, which do not address the developmental needs of the infant or toddler with a disability, are neither required nor covered under part H. Thus, the listing of the non-required services in the IFSP does not mean that those services must be made available or funded under part H; nor does it mean that the eligibility criteria for certain of these services under other Federal or State programs

must be altered. The identification of these services, however, can be helpful to both the child's family and the service coordinator.

STATE APPLICATION AND ASSURANCES

Section 15 amends section 678(A) of the Act by adding an assurance that makes clear the role of the family in the transition of children between the early intervention program under part H and the preschool program under part B. Specifically, a provision has been included to assure that both the LEA and the lead agency have the opportunity to meet with the family. The family should know of the transition arrangements that are available. The provision would allow the LEA to make clear to the parents that they have the right not to accept any transitional change during the school year that they believe will be disruptive to the child.

Section 15 of the bill adds a new assurance to section 678(b) of the Act requiring each State application to include an assurance that policies and practices have been adopted to ensure the meaningful involvement of historically underserved groups. It is especially important to carry out early intervention activities in a "culturally competent" way. This means that child-find, referrals, and early intervention services and supports must be conducted and provided in a manner that honors the beliefs, interpersonal styles, attitudes, and behaviors of those individuals receiving services, and in a manner which has the greatest likelihood of ensuring their maximum participation in the program.

USE OF FUNDS

Section 16 of the bill amends section 679 of the Act to specify that part H funds may be used to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year. This amendment, like the comparable amendment to part B, is designed to ensure a smooth transition from early intervention programs to preschool programs, by permitting States to decide the best approach for meeting the needs of the children in their State.

PROCEDURAL SAFEGUARDS

Section 17 of the bill includes two clarifications to the procedural safeguards provisions in section 680 of the Act. First, the bill clarifies that the parent or guardian has the right to written notice of, and written consent to, the exchange of information among agencies, consistent with Federal and State law. This provision clarifies current policy. However, the Committee does not intend that a written notice or consent be obtained each time an agency exchanges information with another agency on the family's case. The phrase "consistent with Federal and State law" is included in order to make it clear that this provision is not intended to supersede existing child abuse laws and other valid statutes protecting children or the public health that provide for the sharing of information among agencies.

Second, the bill specifies that the parents or guardian have the right to determine whether they, their infant or toddler, or other family members will accept or decline an early intervention service

under this part without jeopardizing other early intervention services under part H "in accordance with State law". This phrase is included in order to make it clear that this provision is not intended to supersede existing State laws governing child abuse and other valid statutes protecting children or the public health.

The intent of this amendment is to ensure that, through informed decision-making on what services exist and are recommended for a family, the family selects the services it desires at that time. Of course, parents or a guardian can consent to a particular service and then withdraw that consent at any time without jeopardizing other services.

STATE INTERAGENCY COORDINATING COUNCIL

Section 18 of the bill modifies the provision in section 682 of the Act pertaining to the size and composition of the State Interagency Coordinating Council, the appointment of the chair, and the functions of, and allowable expenditures by, the Council.

The bill deletes the 15-member limit and specifies that the Council must be composed of at least 15, but not more than 25 members, unless the State provides sufficient justification for a greater number of members in its application. The Committee intends that the "sufficient justification" requirement be satisfied by the submission of any reasonable explanation.

It is the Committee's intent that the States continue to have flexibility to implement this program based on their individual needs and requirements. Therefore, the bill allows the Governor to select the Chairman of the State Interagency Coordinating Council (ICC) from among the members of the Council or to delegate that responsibility to the Council members. Neither the Governor nor the Council can select a representative from the lead agency to serve as Chairman of the State Interagency Coordinating Council in order to avoid the appearance that the Council is merely a "rubber stamp" of the lead agency.

The bill specifies that the Council must be composed of the following categories of members. At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member must be a parent of an infant or toddler with a disability or a child with a disability aged 6 years or younger.

At least 20 percent of the members must be public or private providers of early intervention services. Providers of early intervention services include providers of generic day care services where early intervention services are provided.

At least one member must be from the State legislature. At least one member must be involved in personnel preparation.

At least one member must be from the agency responsible for the State governance of insurance, especially in the area of health insurance.

In addition, the Council must include at least one member representing each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers

with disabilities and their families, and at least one member representing the State educational agency responsible for preschool services to children with disabilities. Each agency representative must have sufficient authority to engage in policy planning and implementation on behalf of the agency.

Finally, the Council may include other members selected by the Governor. The Committee encourages Governors to consider including the director of the parent training center (if one exists), representatives from local educational agencies, pediatricians or other physicians knowledgeable about the needs of infants and toddlers with disabilities, persons knowledgeable about the needs of Indian children, persons knowledgeable about the needs of children who are "at risk", and persons knowledgeable about perinatally drug exposed children.

The functions of the Council are expanded to include planning, advising, and assisting the State educational agency regarding the transition of toddlers with disabilities to services provided under part B to the extent such services are appropriate. Further, the Council may advise and assist the lead agency under part H and the State educational agency under part B regarding the provision of appropriate services for children aged birth to 5, inclusive.

ALLOCATION OF FUNDS

In section 19, the Committee bill establishes a tribal system for coordination, child-find, and referral, similar to that in section 4. The Committee has transferred a 1.25 percent set-aside from the BIA's current authorization and established a program for tribal child-find, identification, and referral. Tribes on reservations with BIA funded schools would be eligible to receive formula grants to conduct child-find, identification, and referral for infants and toddlers. Referrals could be to the State, BIA, Indian Health Services (IHS), private or tribal providers, or other providers, as appropriate.

The Committee wishes to make clear that the provision of services to all infants and toddlers eligible for services under the IDEA, Indian and non-Indian, who reside on any reservation would be the responsibility of the State program.

As with section 4, several clarifications are necessary. First, the 1.25 percent set-aside funds would be transferred to the BIA from the Department of Education for distribution to the tribes under the statutorily established formula. The BIA is to pass through all of these funds to the tribes; it is not to take any for administrative purposes. Administrative costs will be handled by the BIA as part of its education program. Second, these funds are for child-find and initial screening and identification, and referral to the proper authorities for necessary services. The tribes should not use these scarce resources to provide direct services when States, IHS, and other entities exist for this purpose.

The BIA will have no responsibility other than for technical assistance. It is particularly important to again note here that the tribal program is for identification and initial screening and referral, with the services to be provided by the general part H program. It is also particularly important to note that while the States

are designated in the statute, the Committee intends that the Indian Health Services (IHS) maintain its level of service and programs to those infants and toddlers who are covered under its responsibility, and that the Committee expects cooperation and coordination with the States and other entities by the IHS in the provision of all needed services.

The section also ensures that each State receives at least 0.5 percent or $500,000 (whichever is greater) of the funds remaining under section 684 (a) and (b) of the Act.

AUTHORIZATIONS OF APPROPRIATIONS FOR PART H

Section 20 extends the authorization of part H for three years and authorizes $220 million for FY92 and such sums for FY93-94.

FEDERAL INTERAGENCY COORDINATING COUNCIL

Section 21 of the bill establishes a Federal Interagency Coordinating Council and specifies the composition and major functions that the Council must perform. The Committee believes that this Council, which currently exists, performs important functions and should serve as a model for States with respect to the coordination of policies, the development of technical assistance initiatives, and the performance of other functions necessary to achieve the objectives of part H and of section 619 of part B.

STUDY OF THE FUNDING FORMULA

Section 22 of the bill directs the Secretary to undertake a study to identify alternative formulae for allocating funds under part H of IDEA. The study must include an analysis of: the current formula, which uses census data; a formula that uses child count procedures comparable to procedures used in part B of the IDEA; a formula that uses estimates of children that States anticipate will be served each year with adjustments made in the subsequent year for over and under-counting of children actually served; the effect of including or excluding children "at risk" in a formula using child count procedures; and formulae that use other alternatives or a combination of alternatives.

If the Secretary decides to contract out the study, the Committee expects, consistent with current policy, that the Department will not let the contract to any entity that has a conflict of interest.

The Secretary must transmit the study and a report on the study to the House Committee on Education and Labor and the Senate Committe on Labor and Human Resources by March 1, 1993.

The Committee notes its strong inclination to move to a formula, based on a count of children served, that is comparable to the formula used for allocating funds under part B when the Congress reconsiders this program in three years. The report will provide necessary data for the Committee to make an informed decision.

SECTION 6 SCHOOLS AND DEPARTMENT OF DEFENSE OVERSEAS SCHOOLS

Section 23 of the bill clarifies the responsibilities of "section 6" schools to provide education to children with disabilities comparable to that available to children under parts B and H of IDEA. There are 3 categories of children aged 3-5 for purposes of services

(and therefore eligibility for due process): (1) those children now served by section 6 schools; (2) those who must be served by academic year 1992-93 as required under "comparable services"; and (3) those who will not get services by academic year 1992-93 because the rest of the State does not offer them to 3-5 year-olds. The bill amends section 6 of P.L. 81-874 by explaining that, for purposes of providing comparable education, all substantive rights, protections, and procedural safeguards, available to children with disabilities aged 3 to 5, inclusive, under part B of the IDEA shall be applicable by academic year 1992-93. In addition, the Secretary is also required to extend early intervention services, comparable to those provided by the State in which the section 6 school is located, to infants and toddlers with disabilities under part H of the Act by academic year 1992-93.

With respect to part H, it is the Committee's intent that the Department of Defense, as the agent charged with operating the section 6 schools, retain flexibility to determine which entity will serve as the lead agency and which entities will provide the early intervention services.

This amendment is necessary because current regulations issued by the Secretary of Defense only provide that the substantive rights and protections are available to children 6 and older (and not the procedural safeguards). This makes it clear that the same rights apply to children 3 and over.

Section 24 of the bill clarifies the obligations of Department of Defense Overseas Schools pursuant to the Defense Dependents Education Act of 1978 to provide early intervention services to infants and toddlers with disabilities and their families and to children with disabilities aged 3 to 5, inclusive.

Children with disabilities aged 3 to 5, inclusive, must receive a free appropriate public education by adecamic year 1993-94.

Infants and toddlers with disabilities and their families msut be provided early intervention services comparable to those provided under part H in accordance with time lines specified in this bill. It is the Committee's intent that the Department of Defense retain flexibility to determine which entity will serve as the lead agency and which entities will provide the early intervention services.

EFFECTIVE DATES AND APPLICABILITY

Section 27 sets out the effective dates of this bill. It should be noted that for amendments made by sections 5, 12, 13, 14, 15, 17, and 18 the effective date is July 1, 1992, except that each State has the option to have any of the amendments apply earlier than such date.

IV. OVERSIGHT

No findings or recommendations concerning oversight of the programs amended and reauthorized in this bill have been received by this Committee from the Committee on Government Operations. Findings from the Subcommittee's oversight hearings contributed to consideration of this legislation.

V. Cost Estimate

The Congressional Budget Office has estimated the following costs to the Federal government in implementing this legislation. The Committee concurs in these estimates and adopts them in compliance with clause VII of Rule 13. No cost estimates have been received from any other Federal department or agency.

The C.B.O. letter follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 10, 1991.

Hon. William D. Ford,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, DC.

Dear Mr. Chairman: As requested, the Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3053, the Individuals with Disabilities Education Act, as ordered reported by the Committee on Education and Labor on July 30, 1991. Enactment of H.R. 3053 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 3053.

2. Bill title: Individuals with Disabilities Education Act Amendments of 1991.

3. Bill status: As ordered reported by the House Education and Labor Committee on July 30, 1991.

4. Bill purpose: The purpose of this bill is to amend the Individuals with Disabilities Act. H.R. 3053 extends and expands the federal program for disabled infants and toddlers. The bill also aims to improve coordination between early intervention programs, for children from birth to age two, and preschool programs, for those ages three to five. The bill would guarantee each state receive at least $500,000 annually in federal early intervention funds.

H.R. 3053 establishes under the Bureau of Indian Affairs (B.I.A.) an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children and youth with disabilities.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Grants to parents:					
Authorization	3	3	3	(1)	(1)
Estimated outlays	(1)	2	3	3	1
Grants to infants and toddlers with disabilities (part H):					
Estimated authorization	220	228	237	(1)	(1)
Estimated outlays	26	177	223	207	47

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Bill total:					
Estimated authorization	223	231	240	(1)	(1)
Estimated outlays	26	179	226	210	48

[1] Less than $500,000

The cost of this bill falls in budget function 500.

Basis of estimate: H.R. 3053 authorizes $15.1 million in 1992, $16.3 million in 1993, and $17.6 million in 1994 for grants to parents of children and infants. These grants are to be made to private nonprofit organizations to be used to train the parents of disabled infants and children. The authorization levels shown above reflect the increase over the current authorization for each of those years.

This bill also reauthorizes Part H, grants to infants and toddlers, of the Individuals with Disabilities Education Act. This program is authorized for $220 million in 1992 and such sums as necessary in 1993 and 1994. The estimated authorization levels for 1993 and 1994 represent the 1992 level adjusted for anticipated inflation. Under Part H funding, there is established a Federal Interagency Coordinating Council which is to study alternative formulae for allocating funds under Part H of H.R. 3053.

Estimated outlays assume full appropriation of authorizations and reflect the current spending patterns of the existing programs.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Because this bill would not affect direct spending or receipts, there are no pay-as-you-go implications.

7. Estimated cost to State and local government: States are still in the process of locating disabled infants and toddlers eligible for grants under Part H. At this time the total cost of serving all eligible infants and toddlers cannot be estimated. The federal funds made available under this programs would supplant the funds of state and local educational agencies.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Karen Watkins and Mary Helen Petrus.

11. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

VI. Inflationary Impact Statement

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3053 will have no inflationary impact on prices or costs in the operation of the national economy.

VII. Section-by-Section Analysis

SECTION 1—SHORT TITLE

"Individuals with Disabilities Education Act Amendments of 1991".

SECTION 2—REFERENCES REGARDING INDIVIDUALS WITH DISABILITIES EDUCATION ACT

This section is a technical provision stating that any amendment or repeal of a provision is an amendment or repeal of the Individuals with Disabilities Education Act (IDEA).

SECTION 3—DEFINITIONS

This section amends the definition of "children with disabilities" in Section 602(a)(1) of the Act to provide discretion to the States to include children, age 3 to 5, who are experiencing developmental delays in the areas of physical, cognitive, communication, social/emotional, or adaptive development, and who are in need of special education and related services. This is to prevent mislabeling of these young children who do not fit in any particular category.

SECTION 4—SETTLEMENTS AND ALLOCATIONS

This section increases the minimum amount that States can use for administration under Part B from $350,000 to $450,000. This will benefit small population States.

This section also clarifies the role of the Department of Education and the Bureau of Indian Affairs (BIA) when providing services to Indian children with disabilities on reservations who are enrolled in BIA operated or funded schools. The BIA may use 1 percent of the Part B dollars to provide services to Indian children with disabilities on reservations, age 5-21, who are enrolled in BIA operated or funded schools and to Indian students, age 3-5, who are enrolled in programs affiliated with BIA schools that are required by the States in which they are located to attain or maintain accreditation. The State educational agency, however, would be responsible for ensuring that all other Indian children with disabilities age 3-21, inclusive, receive special education and related services.

Section 4 further states that beginning in FY92, the Secretary of Education shall make payments to the Secretary of Interior in the amount of .25 percent of the Part B dollars to be distributed to Indian tribes or tribal organizations to assist States in coordinating services for Indian children with disabilities age 3-5, inclusive, on reservations served by BIA operated or funded schools. None of these funds may be used by the BIA for administrative costs.

Additionally, the Secretary of the Interior is charged, under the BIA, with the establishment of an advisory board.

SECTION 5—STATE PLAN

This section amends Section 613 of the Act to ensure that the comprehensive system of personnel development under part B is consistent with that of part H. States are required to create poli-

cies and procedures to assure a smooth transition from Part H to Part B for eligible children.

SECTION 6—APPLICATION

This section amends Section 614 of the Act to permit local educational agencies and intermediate educational units to use Individualized Family Service Plans (IFSP) as described in Part H instead of Individualized Education Programs (IEP), consistent with State policy and with the concurrence of the family.

SECTION 7—PRESCHOOL GRANTS

This section amends Section 619 of the Act to allow Part B funds to be used for children who will reach their third birthday during the school year whether or not they were already receiving services under Part H. This section also raises the funding ceiling per preschool child from $1,000 to $1,500.

SECTION 8—EARLY EDUCATION FOR CHILDREN WITH DISABILITIES

This section amends Section 623 of the Act to authorize the use of funds for programs which focus on infants and toddlers who are at risk of having substantial developmental delays if early intervention services are not provided. This section also authorizes the use of these funds to facilitate and improve outreach to low-income, minority, rural, and other underserved populations, and to support statewide projects to change the delivery of early intervention and special education and related services from segregated to integrated environments. Section 8 also creates the authority for the Secretary of Education of fund up to 5 competitive State planning grants for the purpose of establishing a statewide, interagency, multidisciplinary, coordinated system to identify, track and refer for appropriate services, all categories of children who are biologically and/or environmentally at risk of having developmental delays.

SECTION 9—GRANTS FOR PERSONNEL TRAINING

This section amends Section 631 of the Act giving the Secretary of Education the authority to fund up to 5 grants to a State or entity to support the formation of consortia or partnerships to provide career advancement and competency-based training, including certificate and degree-granting programs, in special education, related services and early intervention for current workers in public and private agencies that provide services to infants, toddlers, children and youth with disabilities. A technical assistance grant and evaluation of the projects are also authorized under this provision. Section 9 further amends Section 631 to provide parent training information programs with the capacity of serving parents of children with disabilities age birth to 5 years, inclusive, with a special emphasis on serving minority parents of children from this age group.

SECTION 10—AUTHORIZATION OF APPROPRIATIONS FOR PART D

This section increases the authorization level for parent training centers to assist parents of children with disabilities ages birth through 5, and places a priority on those centers to use any new

money appropriated after FY92 to serve parents with children ages birth through 5, including minority parents with children in this age group. The authorization is $15.1 million for FY92; $16.3 million for FY93; and $17.6 million for FY94.

SECTION 11—FINDINGS FOR PART H

This section adds an additional finding reflective of the need for States to serve children and families from underrepresented populations who may be in greater need of early intervention services.

SECTION 12—DEFINITIONS FOR PART H

This section updates the terminology used in part H to currently accepted standards. For example, the bill retains the term "case management" in the definition section, but in subsequent sections uses the term "service coordination". This section also clarifies "early intervention services" by including vision, assistive devices and technology, and transportation services. Furthermore, this section includes family therapists, orientation and mobility specialists, and pediatricians and other physicians under the definition of "qualified personnel". Finally, this section places in statute the policy in current regulations that to the maximum extent appropriate, infants and toddlers receive early intervention services in natural environments, including the home and nonsegregated day-care centers.

SECTION 13—REQUIREMENTS FOR STATEWIDE SYSTEM

This section amends Section 676 of the Act to include training of paraprofessionals, and clarifies that the State comprehensive system of personnel development in Part H must be consistent with the Part B system. This section describes what may be included in the Part H comprehensive system of personnel development, including innovative strategies for the recruitment and retention of early intervention service providers, ensuring that early intervention providers are fully and appropriately qualified, trained to work in rural areas, and trained to provide a smooth transition from early intervention to preschool.

This section also clarifies the general administrative and supervisory roles of the lead agency with respect to programs and activities receiving assistance.

SECTION 14—INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

This section amends Section 677 of the Act in several ways. A statement of the natural environments in which services are provided is required in the Individualized Family Serivice Plan. Changes are also made to emphasize the central role of the parents in designing and implementing services.

The phrase "strengths and needs" of families is replaced with "resources, priorities, and concerns" in accordance with the recommendations of parents. Furthermore, a new subsection (e) is added regarding parental consent.

Finally, this section removes the requirement that the service coordination be a person from "the profession most immediately relevant to the infant's, or toddler's, or family's needs." This allows

other qualified persons to function in the role of service coordinator.

SECTION 15—STATE APPLICATION AND ASSURANCES

This section adds a new requirement to the part H State application process under Section 678 of the Act by requiring a description of the policies and procedures used to ensure a smooth transition between part H and part B. A description of the process by which the lead agency notifies and establishes a conference of the family and local educational agencies and intermediate educational units of a child's eligibility at least 90 days before Part B services must begin is also required, as are further assurances under Section 678(b) of the Act regarding policies and procedures adopted to ensure the meaningful involvement of underserved and minority groups in providing culturally-competent services.

This section also amends Section 678 to authorize and clarify that the State assigns fiscal responsibilities for Part H to several agencies. The State lead agency is then charged with assuring compliance by all State agencies with their appropriate fiscal responsibilities under Part H.

Section 15 also requires the State to designate an individual or entity responsible for assigning financial responsibility among appropriate agencies concerning the provision of early intervention services.

SECTION 16—USE OF FUNDS

This section amends Section 679 of the Act to allow Part H funds to be used to provide a free appropriate public education to children with disabilities from their third birthday to the beginning of the following school year.

SECTION 17—PROCEDURAL SAFEGUARDS

This section amends Section 680 of the Act to clarify parental rights, including the right to decline any single or group of services without jeopardizing access to other services.

SECTION 18—STATE INTERAGENCY COORDINATING COUNCIL (ICC)

This section modifies the composition of the State Interagency Coordinating Council under Section 682 of the Act. This section allows the Governor to designate a member of the Council to serve as the chairperson or require the Council to designate the chairperson as long as that designated member is not a representative from the lead agency. Section 18 also addresses the functions of, and allowable expenditures by, the Council.

SECTION 19—ALLOCATION OF FUNDS

This section requires the Secretary of Education to make payments to the Secretary of the Interior in the amount of 1.25 percent of the Part H dollars to be distributed to Tribes or tribal organizations for the purpose of coordinating early intervention services provided by States to Indian infants and toddlers with disabilities and their families on reservations served by BIA operated or funded schools and to assist States in child-find, screening, and

other procedures for the early identification of Indian children, aged 0–2, inclusive, and for parent training. None of these funds may be used by the BIA for administrative costs. Section 19 also ensures that each State receives at least 0.5 percent or $500,000 (whichever is greater) of the funds remaining under Section 684 (a) and (b) of the Act.

SECTION 20—AUTHORIZATIONS OF APPROPRIATIONS FOR PART H

This section extends the authorization of Part H for three years and authorizes $220 million for FY92 and such sums for FY93–94.

SECTION 21—FEDERAL INTERAGENCY COORDINATING COUNCIL

This is a new section which places in statute the current Department of Education policy of utilizing an interagency coordinating council similar to that required at the State level. The composition and major functions of the Council are specified.

SECTION 22—STUDY

This is a new section which requires the Secretary of Education to carry out a study of alternative funding formulae for allocating funds under Part H of IDEA. The study is to be completed by March 1, 1993, in time for the next reauthorization cycle.

SECTIONS 23 AND 24—SECTION 6 SCHOOLS AND DEFENSE DEPENDENTS EDUCATION ACT OF 1978

These sections of the bill amend Section 6 of P.L. 81–874, Impact Aid and Section 1409 of the Defense Dependents Education Act of 1978, respectively, to assure the availability of early intervention services for infants and toddlers with disabilities who are military dependents and a free appropriate public education for preschool children with disabilities who are military dependents comparable to those available under Parts B and H. For DOD Section 6 schools, this requirement must be met by the 1992–93 school year. With respect to DOD Overseas Schools, children with disabilities, aged 3 to 5, inclusive, must be served by the 1993–94 school year; early intervention services must be provided to eligible infants and toddlers with disabilities and their families by the 1995–96 school year.

SECTIONS 25 AND 26—TECHNICAL AMENDMENTS

These sections make technical amendments to the Individuals with Disabilities Education Act and other Acts.

SECTION 27—EFFECTIVE DATES AND APPLICABILITY

This section sets out the effective dates of this bill.

VIII. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

PART A—GENERAL PROVISIONS

* * * * * * *

DEFINITIONS

SEC. 602. (a) As used in this title—

(1)*(A)* The term "children with disabilities" means children—

[(A)] *(i)* with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

[(B)] *(ii)* who, by reason thereof, need special education and related services.

(B) The term "children with disabilities" for children aged 3 to 5, inclusive, may, at a State's discretion, include children—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) who, by reason thereof, need special education and related services.

* * * * * * *

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation [and social work services, and medical and counseling services, including rehabilitation counseling,], *social work services, counseling services, including rehabilitation counseling, and medical services,* except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

* * * * * * *

(22) The term "native language" has the meaning given that term by [section 703(a)(2)] *section 7003(a)(2)* of the Bilingual Education Act.

* * * * * * *

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

SEC. 605. (a) * * *

(b) If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title, the facil-

ity constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

* * * * * * *

PART B—ASSISTANCE FOR EDUCATION OF ALL [HANDICAPPED CHILDREN] *CHILDREN WITH DISABILITIES*

SETTLEMENTS AND ALLOCATIONS

SEC. 611. (a)(1) Except as provided in paragraph [(3)] *(5)* and in section 619, the maximum amount of the grant to which a State is entitled under this part for any fiscal year shall be equal to—

(A) * * *

* * * * * * *

(c)(1) * * *

(2)(A) Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

(i) an amount which is equal to the greater of—

(I) * * *

(II) [$350,000] *$450,000*;

may be used by such State for administrative costs related to carrying out the provisions of sections 612 and 613; and

* * * * * * *

[(f)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for assistance for the education of children with disabilities on reservations (A) served by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) for whom services were provided through contract with an Indian tribe or organization prior to fiscal year 1989. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate amounts available to all States under this section for that fiscal year.

[(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which—

[(A) meets the applicable requirements of sections 612, 613, and 614(a),

[(B) includes satisfactory assurance that all children with disabilities aged 3 to 5, inclusive, receive a free appropriate public education by or before the 1987–1988 school year,

[(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and designated local school boards before adoption of the poli-

cies, programs, and procedures required under sections 612, 613, and 614(a), and

[(D) is approved by the Secretary.

Section 616 shall apply to any such application.

[(3) Before March 1, 1991, the Secretary of the Interior shall submit to the appropriate Committees of the Congress a plan for the provision of services under this Act to all children with disabilities residing on reservations, whether or not such reservation is served by a B.I.A. funded school. Such plan shall provide for the coordination of services benefiting these children from whatever source, including Tribes, the State in which the child resides and entities of such State, the Indian Health Service, other B.I.A. divisions and other Federal agencies. In developing such a plan, the Secretary shall consult with all interested and involved parties. Such a plan may not be based upon a blanket assumption or interpretation that denies Federal or Interior responsibility for any group or class of children or settings, but shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of service agreements between the B.I.A. and other entities.]

(f)(1) The Secretary shall make payments to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5–21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. In the case of Indian students ages 3–5, inclusive, who are enrolled in programs affiliated with Bureau of Indian Affairs (hereafter in this subsection referred to as "B.I.A.") schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of these amendments, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (3). The amount of such payment for any fiscal year shall be 1 percent of the aggregate amounts available for all States under this section for that fiscal year.

(2) With respect to all other children aged 3–21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

(3) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary of Education an application that—

(A) meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities), 613, and 614(a);

(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and af-

fected local school boards before the adoption of the policies, programs, and procedures required under subparagraph (A);

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618(b)(1), including data on the number of children and youth with disabilities served and the types and amounts of services provided and needed and this information shall be included in the annual report of the Secretary of Education to Congress required in section 618;

(E) includes an assurance that, by October 1, 1992, the Secretaries of Interior and Health and Human Services will enter into a memorandum of agreement, to be provided to the Secretary of Education for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations. Such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate), equipment and medical/personal supplies as needed for a child to remain in school or a program; and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of Interior and other entities under this Act, and will fulfill its duties under this Act.

Section 616(a) shall apply to any such application.

(4)(A) Beginning with funds appropriated under section 611(a), for fiscal year 1992, the Secretary shall, subject to this paragraph, make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortiums of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3-5, inclusive, on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be .25 percent of the aggregate amounts available for all States under this section for that fiscal year.

(B) The Secretary of the Interior shall distribute the total amount of the .25 percent under subparagraph (A) in the following manner:

(i) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for B.I.A. funded schools serving such reservation generated under the formula established under section 1128 of the Education Amendments of 1978, divided by the total number of such students in all B.I.A. funded schools.

(ii) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based on the number of children with disabilities, ages 3-5, inclusive, residing on reservations as

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reported annually divided by the total of such children served by all tribes or tribal organizations.

(C) To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

(D) The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3-5, inclusive, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the B.I.A., local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(E) To be eligible to receive a grant pursuant to subparagraph (A) the tribe or tribal organization shall make a biennial report to the Secretary of the Interior of activities undertaken under this paragraph, including the number of cooperative agreements entered into, the number of children contacted and receiving services for each year and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) The Secretary of the Interior shall offer and, on request, provide technical assistance (especially in the areas of child find, diagnosis, and referral) to State and local educational agencies (where appropriate, intermediate educational units), and tribes and tribal organizations. Such assistance may be provided through its divisions and offices at the national and local level.

(G) None of the funds allocated under this paragraph can be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(5) Before January 1, 1992, the Secretary of the Interior shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other B.I.A. divisions, and other Federal agencies. In developing such a plan, the Secretary of the Interior shall consult with all interested and involved parties. It shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the B.I.A., other Federal agencies, and other entities. Such plan shall also be distributed upon request to States, State and local educational agencies, and other agencies pro-

viding services to infants, toddlers, children, and youth with disabilities, to tribes, and to other interested parties.

(6) To meet the requirements of sections 613(a)(12) and 682 of this Act, the Secretary of the Interior shall establish, within 6 months of the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1991, under the Bureau of Indian Affairs (B.I.A.) an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils in States having reservations, and other members representing the various divisions and entities of the B.I.A. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within B.I.A. and with other local, State, and Federal agencies in the provision of education for infants, toddlers, children, and youth with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, children, and youth with disabilities; and

(E) provide assistance in the preparation of information required under paragraph (3)(D).

* * * * * * *

ELIGIBILITY

SEC. 612. In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) * * *

* * * * * * *

(3) The State has established priorities for providing a free appropriate public education to all children with disabilities, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to [handicapped children] *children with disabilities* who are not receiving an education, and second with respect to children with disabilities, within each disability category, with the most severe disabilities who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

* * * * * * *

STATE PLANS

SEC. 613. (a) Any State meeting the eligibility requirements set forth in section 612 and desiring to participate in the program under this part shall submit to the Secretary, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as the Secretary deems necessary. Each such plan shall—

(1) * * *

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [and section 202(1) of the Carl D. Perkins Vocational Education Act], under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) describe, consistent with the purposes of [this Act,] *this Act and with the comprehensive system of personnel development described in section 676(b)(8),* a comprehensive system of personnel development that shall include—

(A) * * *

* * * * * * *

(9) provide satisfactory assurance that Federal funds made available under this part—

(A) * * *

(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to [handicapped children] *children with disabilities* under this part and in no case to supplant such Federal, State and local funds, except that, where the State provides clear and convincing evidence that all [handicapped children] *children with disabilities* have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;

* * * * * * * *

(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to—

(A) * * *

(B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reim-

bursement from other agencies or otherwise implement the provisions of the agreement; [and]

(14) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing special education or related services, and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State[.]; *and*

(15) set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program assisted under part H who will participate in preschool programs assisted under this part, including a method of ensuring that when a child turns age three an individualized education program, or, if consistent with sections 614(a)(5) and 677(d), an individualized family service plan, has been developed and is being implemented by such child's third birthday.

* * * * * * *

APPLICATION

SEC. 614. (a) A local educational agency or an intermediate educational unit which desires to receive payments under section 611(d) for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) * * *

* * * * * * *

(5) provide assurances that the local educational agency or intermediate educational unit will establish or revise, whichever is appropriate, an individualized education program for each child with a disability *(or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 677(d) for each child with a disability aged 3 to 5, inclusive)* at the beginning of each school year and will then review and, if appropriate, revise, its provisions periodically, but not less than annually;

* * * * * * *

ADMINISTRATION

SEC. 617. (a) * * *

(b) In carrying out the provisions of this part, the Secretary [(and the Secretary, in carrying out the provisions of subsection (c))] shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

* * * * * * *

[PRE-SCHOOL] *PRESCHOOL* GRANTS

SEC. 619. (a) * * *

* * * * * * *

(b)(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

(A) * * *

(B) has a State plan approved under section 613 which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all children with disabilities aged three to five, inclusive, *and for any two-year-old children provided services by the State under subsection (c)(2)(B)(ii) or by a local educational agency or intermediate educational unit under subsection (f)(2).*

* * * * * * *

(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed [$1,000] *$1,500* for each child with a disability in such State aged three to five, inclusive.

* * * * * * *

(c)(1) * * *

(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) shall—

(A) * * *

[(B) use not more than 20 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for children with disabilities, and]

(B) use not more than 20 percent of such grant—

(i) for planning and development of a comprehensive delivery system,

(ii) for direct and support services for children with disabilities, aged 3 to 5, inclusive, and

(iii) at the State's discretion, to provide a free appropriate public education, in accordance with this Act, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H, and

* * * * * * *

[(f) Notwithstanding any other provision of law, unless enacted in express limitation of this subsection, amounts appropriated under this section for fiscal years 1987 and 1988 and received by a

State whose allotment for the succeeding fiscal year is adjusted downwards under subsection (a)(2)(E) shall remain available for obligation by such State, and by local educational agencies and intermediate educational units in such State, during the 2 fiscal years succeeding the fiscal year for which such amounts were appropriated.]

(f) Each local educational agency or intermediate educational unit receiving funds under this section—

(1) shall use such funds to provide special education and related services to children with disabilities aged 3 to 5, inclusive, and

(2) may, if consistent with State policy, use such funds to provide a free appropriate public education, in accordance with this part, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H.

(g) Part H of this Act does not apply to any child with disabilities receiving a free appropriate public education, in accordance with this part, with funds received under this section.

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PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF INDIVIDUALS WITH DISABILITIES

* * * * * * *

SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

SEC. 622. (a)(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies, local educational agencies, and designated lead agencies under part H to—

(A) * * *

* * * * * * *

EARLY EDUCATION FOR CHILDREN WITH DISABILITIES

SEC. 623. (a)(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for children with disabilities, *including individuals who are at risk of having substantial developmental delays if early intervention services are not provided,* which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special needs of these children. Such programs shall include activities and services designed to—

(A) facilitate the intellectual, emotional, physical, mental, social, speech or other communication mode [and], language development, and self-help skills of such children,

* * * * * * *

(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities, [and]

(I) facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under parts B and H,

(J) support statewide projects in conjunction with a State's application under part H and a State's plan under part B, to change the delivery of early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments, and

[(I)] *(K)* increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

* * * * * * *

(b) The Secretary shall fund up to 5 grants to States for 3 years for the purpose of establishing a statewide inter-agency, multi-disciplinary, coordinated system for the identification, tracking, and referral to appropriate services for all categories of children who are biologically and/or environmentally at-risk of having developmental delays. To the extent feasible, such grants shall be geographically dispersed throughout the Nation in urban and rural areas. Each grantee must—

(1) create a data system within the first year to document the numbers and types of at-risk children in the State and that develops linkages with all appropriate existing child data and tracking systems that assist in providing information;

(2) coordinate activities with the child find component required under parts B and H of this Act;

(3) demonstrate the involvement of the lead agency and the State interagency coordinating council under part H as well as the State educational agency under part B;

(4) coordinate with other relevant prevention activities across appropriate service agencies, organizations, councils, and commissions;

(5) define an appropriate service delivery system based on children with various types of at-risk factors;

(6) document the need for additional services as well as barriers; and

(7) disseminate findings and information in the manner prescribed in section 610(g).

[(b)] *(c)* The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to children with disabilities. This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established in-

formation networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.

[(c)] *(d)* The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for children with disabilities and their families. Such institutes shall disseminate this information in the manner prescribed in section 610(g).

[(d)] *(e)* The Secretary may make grants to, or enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of children with disabilities and for training of personnel for programs specifically designed for children with disabilities, including programs to integrate children with disabilities into regular preschool programs.

[(e)] *(f)* At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections [(b) and (c)] *(c) and (d)*, the Secretary shall publish in the Federal Register a notice of intent to accept applications for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

[(f)] *(g)* For purposes of this section the term "children with disabilities" includes children from birth through eight years of age, including infants and toddlers with disabilities.

[(g)] *(h)* The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.

PROGRAMS FOR CHILDREN WITH SEVERE DISABILITIES

SEC. 624. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—

(1) research to identify and meet the full range of special education, related services, and early intervention needs[, including transportation to and from school of such children and youth with disabilities,] *of such children and youth with dis-*

abilities, including their need for transportation to and from school,

* * * * * * *

[SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH] *SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABILITIES*

SEC. 626. (a) * * *

* * * * * * *

PART D—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES

GRANTS FOR PERSONNEL TRAINING

SEC. 631. (a)(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education, related services, and early intervention, including—

(A) * * *

* * * * * * *

(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for [handicapped children] *children with disabilities.*

* * * * * * *

(c)(1) The Secretary shall fund up to 5 grants to States or entities to support the formation of a consortium or partnerships of public and private entities for the purpose of providing opportunities for career advancement and/or competency-based training, including but not limited to, certificate or degree granting programs in special education, related services, and early intervention for current workers at public and private agencies that provide services to infants, toddlers, children, and youth with disabilities. Recipients shall meet the requirements of section 610(g) for the dissemination of information. Grant funds may include, but not be limited to, the following—

(A) establish a program with colleges and universities to develop creative new programs and coursework options and/or to expand existing programs in the field of special education, related services, or early intervention. Funds may be used to provide release time for faculty and staff for curriculum development, instructional costs, modest start-up and other program development costs;

(B) establish a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, county, and voluntary sector workers who

have demonstrated a commitment to working in the above fields and who are enrolled in higher education institution programs relating to these fields;

(C) support a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in the above fields; and

(D) identify existing public and private agency and labor union personnel policies and benefit programs that may facilitate the ability of workers to take advantage of higher education opportunities such as leave time, tuition reimbursement, etc.

(2) To the extent feasible, projects authorized under subsection (l) shall be geographically dispersed throughout the Nation in urban and rural areas.

(3) The Secretary shall award, for the purpose of providing technical assistance to States or entities receiving grants under subsection (l), a cooperative agreement through a separate competition to an entity which has successfully demonstrated the capacity and expertise in the education, training, and retention of workers to serve children and youth with disabilities through the use of consortium or partnerships established for the purpose of retaining the existing workforce and providing opportunities for career enhancement.

(4) The Secretary may conduct an evaluation of projects funded under subsection (c).

(5) During the period in which an entity is receiving financial assistance under paragraph (1) or (3), the entity may not receive financial assistance under the other paragraph.

[(c)] *(d)*(1) * * *

* * * * * * *

(4) The Secretary shall ensure that grants under paragraph (1) will—

(A) * * *

* * * * * * *

(C) serve parents of minority children with disabilities *(including parents served pursuant to paragraph (10))* representative to the proportion of the minority population in the areas being served *by identifying with specificity the special efforts that will be undertaken to involve such parents, including efforts to work with community-based and cultural organizations and the specification of supplementary aids, services, and supports that will be made available, and by specifying budgetary items earmarked to accomplish this subparagraph*, and

* * * * * * *

(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

(A) * * *

* * * * * * *

[(D) participate in educational decisionmaking processes including the development of a handicapped child's individualized education program,]

(D) participate in educational decisionmaking processes, including the development of the individualized education program for a child with a disability,

* * * * * * *

(10)(A) In the case of a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the organization, in expending the amounts described in subparagraph (B), shall give priority to providing services under this subsection to parents of children with disabilities, aged 0–5.

(B) With respect to a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the amounts described in this subparagraph are any amounts provided in the grant in excess of the amount of any grant under such paragraph provided to the organization for fiscal year 1992.

[(10)] *(11)* Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data concerning programs and centers assisted under this subsection on—

(A) * * *

* * * * * * *

(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)(C), [and]

(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels[.], *and*

(G) the number of parents served under this subsection who are parents of children with disabilities, aged 0–5.

The Secretary shall include a summary of this information in the annual report to Congress as required in section 618(g).

* * * * * * *

REPORTS TO THE SECRETARY

SEC. 634. (a) Not more than sixty days after the end of any fiscal year, each recipient of a grant or contract under this part during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

(1) * * *

* * * * * * *

(3) information described in section 631(c)[(9)]*(10)* and section 633(f)(1), as applicable.

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 635. (a)(1) * * *

* * * * * * *

(3) There are authorized to be appropriated to carry out section 631(c) $11,000,000 for fiscal year 1991, [$12,100,000] *$15,100,000*

for fiscal year 1992, [$13,300,000] *$16,300,000* for fiscal year 1993, and [$14,600,000] *$17,600,000* for fiscal year 1994.

* * * * * * *

[(c) Of the funds appropriated under subsection (a) for any fiscal year, the Secretary shall reserve 10 percent for activities under section 631(c).]

PART E—RESEARCH IN THE EDUCATION OF HANDICAPPED INDIVIDUALS

* * * * * * *

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR [HANDICAPPED CHILDREN] *CHILDREN WITH DISABILITIES*

SEC. 642. The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for children with disabilities, including therapeutic recreation, and to conduct research, surveys, or demonstrations relating to physical education or recreation for children with disabilities, including therapeutic recreation.

* * * * * * *

PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

FINANCIAL ASSISTANCE

SEC. 661. (a) * * *
(b)(1) * * *
(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title I of [Public Law 100-407] *the Technology-Related Assistance for Individuals with Disabilities Act of 1988.*

* * * * * * *

PART H—INFANTS AND TODDLERS WITH DISABILITIES

FINDINGS AND POLICY

SEC. 671. (a) FINDINGS.—The Congress finds that there is an urgent and substantial need—
(1) * * *

* * * * * * *

(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independent living in society, [and]

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities[.], *and*

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States—

(1) * * *

* * * * * * *

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being [provided to handicapped infants, toddlers, and their families] *provided to infants and toddlers with disabilities and their families.*

DEFINITIONS

SEC. 672. As used in this part—

(1) The term "infants and toddlers with disabilities" means individuals from birth to age 2, inclusive, who need early intervention services because they—

(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, [language and speech development, psychosocial development, or self-help skills,] *language and speech development (hereafter in this part referred to as "communication development"), psychosocial development (hereafter in this part referred to as "social or emotional development"), or self-help skills (hereafter in this part referred to as "adaptive development"),* or

* * * * * * *

(2) The term "early intervention services" are developmental services which—

(A) * * *

* * * * * * *

(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas:

(i) * * *

* * * * * * *

(iii) [language and speech] *communication* development,

(iv) [psychosocial] *social or emotional* development, or

(v) [self-help skills] *adaptive development,*

* * * * * * *

(E) include—

(i) * * *

* * * * * * *

(vii) [case management services,] *case management services (hereafter in this part referred to as "service coordination services"),*

* * * * * * *

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services, [and]

(xi) social work services,

(xii) vision services,

(xiii) assistive technology devices and assistive technology services, and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive early intervention services,

(F) are provided by qualified personnel, including—

(i) * * *

* * * * * * *

(vii) nurses, [and]

(viii) nutritionists, [and]

(ix) family therapists,

(x) orientation and mobility specialists, and

(xi) pediatricians and other physicians,

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate, and

[(G)] *(H)* are provided in conformity with an individualized family service plan adopted in accordance with section 677.

* * * * * * *

REQUIREMENTS FOR STATEWIDE SYSTEM

SEC. 676. (a) * * *

(b) MINIMUM COMPONENTS.—The statewide system required by subsection (a) shall include, at a minimum—

(1) * * *

* * * * * * *

(4) for each [handicapped infant and toddler] *infant and toddler with a disability* in the State, an individualized family service plan in accordance with section 677, including [case management] *service coordination* services in accordance with such service plan,

* * * * * * *

(6) a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on

the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services [as required under this paragraph] to parents of infants with disabilities,

* * * * * * *

[(8) a comprehensive system of personnel development, including training of primary referral sources respecting the basic components of early intervention services available in the State,]

(8) a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 613(a)(3) and that may include—

(A) implementing innovative strategies and activities for the recruitment and retention of early intervention service providers,

(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part,

(C) training personnel to work in rural areas, and

(D) training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program under this part to a preschool program under section 619 of part B,

(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

[(A) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 673 to ensure compliance with this part,]

(A) the general administration and supervision of programs and activities receiving assistance under section 673, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 673, to ensure that the State complies with this part,

(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

(C) the assignment of financial responsibility *in accordance with section 678(a)(2)* to the appropriate [agency] *agencies*,

* * * * * * *

INDIVIDUALIZED FAMILY SERVICE PLAN

SEC. 677. (a) ASSESSMENT AND PROGRAM DEVELOPMENT.—Each infant or toddler with a disability and the infant's or toddler's family shall receive—

[(1) a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and]

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs,

(2) a family directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability, and

[(2)] *(3)* a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d).

* * * * * * *

(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, [language and speech development, psychosocial development, and self-help skills,] *communication development, social or emotional development, and adaptive development,* based on acceptable objective criteria,

(2) a statement of the family's [strengths and needs] *resources, priorities, and concerns* relating to enhancing the development of the family's infant or toddler with a disability,

* * * * * * *

(5) a statement of the natural environments in which early intervention services shall appropriately be provided,

[(5)] *(6)* the projected dates for initiation of services and the anticipated duration of such services,

[(6)] *(7)* the name of the case manager *(hereafter in this part referred to as the "service coordinator")* from the profession most immediately relevant to the infant's or toddler's or family's needs *(or who is otherwise qualified to carry out all applicable responsibilities under this part)* who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

[(7)] *(8)* the steps to be taken supporting the transition of the toddler with a disability to services provided under part B of this Act to the extent such services are considered appropriate.

(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents or guardian and informed written consent from such parents or guardian shall be obtained prior to the provision of early intervention services described in such plan. If such parents or guardian do not provide such consent with respect to a particular early intervention service, then the early intervention services to which such consent is obtained shall be provided.

STATE APPLICATION AND ASSURANCES

SEC. 678. (a) APPLICATION.—Any State desiring to receive a grant under section 673 for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

(1) * * *

(2) a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies,

[(2)] *(3)* information demonstrating eligibility of the State under section 674,

[(3)] *(4)* the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675,

[(4)] *(5)* (A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

[(5)] *(6)* a description of the uses for which funds will be expended in accordance with this part and, for the fifth and succeeding fiscal years, a description of the services to be provided,

[(6)] *(7)* a description of the procedure used to ensure an equitable distribution of resources made available under this part among all geographic areas within the State, [and]

(8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this part who are eligible for participation in preschool programs under part B, including a description of how the families will be included in the transitional plans and how the lead agency under this part will notify the appropriate local educational agency or intermediate educational unit in which the child resides and convene, with the approval of the family, a conference between the lead agency, the family, and such agency or unit at least 90 days before such child is eligible for the preschool program under part B in accordance with State law, and to review the child's program options, for the period commencing on the day a child turns 3 running through the remainder of the school year, and to establish a transition plan, and

[(7)] *(9)* such other information and assurances as the Secretary may reasonably require by regulation.

(b) STATEMENT OF ASSURANCES.—Any State desiring to receive a grant under section 673 shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

(1) * * *

* * * * * * *

(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 673 to the State, [and]

(7) beginning in fiscal year 1992, provide satisfactory assurance that policies and practices have been adopted to ensure meaningful involvement of traditionally underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part and to ensure that such families have access to culturally competent services within their local areas, and

[(7)] *(8)* such other information and assurances as the Secretary may reasonably require by regulation.

* * * * * * *

USES OF FUNDS

SEC. 679. In addition to using funds provided under section 673 to plan, develop, and implement the statewide system required by section 676, a State may use such funds—

(1) for direct services for infants and toddlers with disabilities and their families that are not otherwise provided from other public or private sources, [and]

(2) to expand and improve on services for infants and toddlers with disabilities and their families that are otherwise available[.], *and*

(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year.

PROCEDURAL SAFEGUARDS

SEC. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

(1) * * *

(2) The right to confidentiality of personally identifiable information *including the right of parents or guardians to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.*

(3) The right of the parents or guardian to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

[(3)] *(4)* The opportunity for parents or a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

[(4)] *(5)* Procedures to protect the rights of the infant or toddler with a disability whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

[(5)] *(6)* Written prior notice to the parents or guardian of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

[(6)] *(7)* Procedures designed to assure that the notice required by paragraph [(5)] *(6)* fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly. is not feasible to do so, of all procedures available pursuant to this section.

[(7)] *(8)* During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

* * * * * * *

STATE INTERAGENCY COORDINATING COUNCIL

SEC. 682. (a) ESTABLISHMENT.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of [15 members] *at least 15 members but not more than 25 members, unless the State provides sufficient justification for a greater number of members in the application submitted pursuant to section 678.*

(2) The Council [and the chairperson of the Council] shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

(3) The Governor shall designate a member of the Council to serve as the chairperson of the Council, or shall require the Council to so designate such a member. Any member of the Council who is a representative of the lead agency designated under section 676(b)(9) may not serve as the chairperson of the Council.

[(b) COMPOSITION.—The Council shall be composed of—

[(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

[(2) at least 3 public or private providers of early intervention services,

[(3) at least one representative from the State legislature,

[(4) at least one person involved in personnel preparation,

[(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families, and

[(6) others selected by the Governor.]

(b) COMPOSITION.—(1) The Council shall be composed as follows:

(A) At least 20 percent of the members shall be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a

parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) At least 20 percent of the members shall be public or private providers of early intervention services.

(C) At least one member shall be from the State legislature.

(D) At least one member shall be involved in personnel preparation.

(E) At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) At least one member shall be from the agency responsible for the State governance of insurance especially in the area of health insurance.

(2) The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs or where there is no B.I.A. funded school, Indian Health Services or the tribe/tribal council.

* * * * * * *

(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part [to hire staff, and obtain] *to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain* the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

(e) FUNCTIONS OF COUNCIL.—*(1)* The Council shall—

[(1)] *(A)* advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

[(2)] *(B)* advise and assist the lead agency in the preparation of applications and amendments thereto, [and]

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under part B, to the extent such services are appropriate, and

[(3)] *(D)* prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for [infants or toddlers] *infants and toddlers* with disabilities and their families operated within the State.

(2) The Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to 5, inclusive.

* * * * * * *

ALLOCATION OF FUNDS

SEC. 684. (a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, [the Republic of the Marshall Islands, the Federated States of Micronesia,] the Republic of Palau *(until the compact of Free Association with Palau is ratified)*, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

[(b)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to infants and toddlers with disabilities and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

[(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which meets the requirements of section 678 and which is approved by the Secretary. Section 616 shall apply to any such application.]

(b)(1) The Secretary shall, subject to this subsection make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortium of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

(2) The Secretary of the Interior shall distribute the total amount of the 1.25 percent under paragraph (1) in the following manner:

(A) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for B.I.A. funded schools serving such reservation generated under the formula established under section 1128 of the Education Amendments of 1978, divided by the total number of such students in all B.I.A. funded schools.

(B) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based on the number of infants and toddlers residing on the reservation as determined annually divided by the total of such children served by all tribes or tribal organizations.

(3) To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interi-

or as are needed to determine the amounts to be allocated under paragraph (2).

(4) The funds received by a tribe or tribal organization shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children aged 0-2, inclusive, and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. These activities may be carried out directly or through contracts or cooperative agreements with the B.I.A., local educational agencies, and other public or private nonprofit organizations. The tribe and tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) To be eligible to receive a grant pursuant to paragraph (2) the tribe or tribal organization shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection including the number of cooperative agreements entered into, the number of children contacted and receiving services for each year and the estimated number of children needing services during the 2 years following the one in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(f)(3)(D) of this Act. The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) None of the funds under this subsection can be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c)(1) For each of the fiscal years 1987 through [1991] *1994* from the funds remaining after the reservation and payments under subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder, *or $500,000, whichever is greater.*

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FEDERAL INTERAGENCY COORDINATING COUNCIL

SEC. 685. (a) ESTABLISHMENT AND PURPOSE.—

(1) IN GENERAL.—The Secretary shall establish a Federal Interagency Coordinating Council in order to—

(A) minimize duplication of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families, and preschool services for children with disabilities, across Federal, State, and local agencies;

(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;

(C) coordinate the provision of Federal technical assistance and support activities to States;

(D) identify gaps in Federal agency programs and services; and

(E) identify barriers to Federal interagency cooperation.

(2) APPOINTMENTS.—The council established under paragraph (1) (hereafter in this section referred to as the "Council") and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that such member represents.

(b) COMPOSITION.—The Council shall be composed of—

(1) a representative of the Office of Special Education Programs;

(2) a representative of the National Institute on Disability and Rehabilitation Research;

(3) a representative of the Maternal and Child Health Services Block Grant Program;

(4) a representative of programs assisted under the Developmental Disabilities Assistance and Bill of Rights Act;

(5) a representative of the Health Care Financing Administration;

(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

(7) a representative of the Social Security Administration;

(8) a representative of the Special Supplemental Food Program for Women, Infants and Children of the Department of Agriculture;

(9) a representative of the National Institute of Mental Health;

(10) a representative of the National Institute of Child Health and Human Development;

(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

(12) a representative of the Indian Health Service;

(13) a representative of the Surgeon General;

(14) a representative of the Department of Defense;

(15) a representative of the Administration for Children and Families;

(16) a representative of the Alcohol, Drug Abuse and Mental Health Administration;

(17) a representative of the Pediatric Aids Health Care Demonstration Program in the Public Health Service;

(18) at least 3 parents of children with disabilities age 12 or under, of whom at least one must have a child with a disability under the age of 6;

(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of which must be a representative of a State educational agency and the other a representative of a noneducational agency;

(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and tod-

dlers with disabilities and their families and preschool children with disabilities; and

(21) other persons appointed by the Secretary.

(c) MEETINGS.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) FUNCTIONS OF THE COUNCIL.—The Council shall—

(1) advise and assist the Secretary in the performance of the Secretary's responsibilities described in this part;

(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

(3) identify strategies to address issues described in paragraph (2);

(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

(6) facilitate activities in support of States' interagency coordination efforts.

(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

AUTHORIZATION OF APPROPRIATIONS

SEC. [685. There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 1987, $75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.] *686. There are authorized to be appropriated to carry out this part $220,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.*

SECTION 6 OF PUBLIC LAW 81-874

(Commonly Known as Impact Aid)

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 6. (a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Secretary, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Secretary shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Secretary, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. *For purposes of providing such comparable education, all substantive rights, protections and procedural safeguards, available to children with disabilities age 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act and to infants and toddlers under part H of such Act shall be applicable to such comparable education by academic year 1992–1993, and all due process procedures available under part B of such Act shall be applicable to such comparable education on the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991.* For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the Federal Employees' Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.). Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia. In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for

the children residing on such installation, until the Secretary and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

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SECTION 1409 OF THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

ALLOTMENT FORMULA

SEC. 1409. (a) * * *

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[(c) The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this Act.]

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) CHILDREN WITH DISABILITIES.—Notwithstanding the provisions of section 1402(b)(3), the provisions of part B of the Individuals with Disabilities Education Act, other than the funding and reporting provisions, shall apply to all schools operated by the Department of Defense under this title, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education by academic year 1993–1994.

(2) INFANTS AND TODDLERS WITH DISABILITIES.—The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 677 of the Individuals with Disabilities Education Act and to comply with the procedural safeguards set forth in part H of such Act shall apply with respect to all eligible dependents overseas.

(3) IMPLEMENTATION TIMELINES.—In carrying out the provisions of paragraph (2), the Secretary shall—

(A) in academic year 1991–1992 and the 2 succeeding academic years, plan and develop a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among Department of Defense entities involved in the provision of such services to such individuals;

(B) in academic year 1994–1995, implement the program described in subparagraph (A), except the Secretary need only conduct multidisciplinary assessments, develop individualized family service plans and make available case management services; and

(C) in academic year 1995–1996 and succeeding academic years, have in effect the program described in subparagraph (A).

SECTION 670S OF THE COMPREHENSIVE CHILD DEVELOPMENT ACT

DEFINITIONS

SEC. 670S. As used in this subchapter—

(1) the term "early intervention services" has the same meaning given that term by section 672(2) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act* (20 U.S.C. 1472(2));

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DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

TITLE I—PROGRAMS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

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PART B—FEDERAL ASSISTANCE FOR PLANNING PRIORITY AREA ACTIVITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

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STATE PLANS

SEC. 122. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.

(b) In order to be approved by the Secretary under this section, a State plan must meet the following requirements:

(1) * * *

* * * * * * *

(5)(A) * * *

* * * * * * *

(C) The plan must be developed after consideration of the data collected by the State education agency under section 618(b)(3) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*.

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STATE PLANNING COUNCILS

SEC. 124. (a) * * *

(b)(1) * * *

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(3) Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, the State agency that administers funds provided under the Older Americans Act of 1965, and

the State agency that administers funds provided under title XIX of th3 Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated program or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in that State.

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SECTION 663 OF THE FOLLOW THROUGH ACT

CONSIDERATION OF APPLICATIONS

SEC. 663. (a) * * *

(b) CONTENTS OF APPLICATION.—Each application for a grant under this part shall—

(1) * * *

* * * * * * *

(9) describe how the applicant proposes to coordinate services under this part with services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Bilingual Education Act, and the [Education of the Handicapped Act of 1975] *Individuals with Disabilities Education Act;*

* * * * * * *

SECTION 136 OF THE HEAD START TRANSITION PROJECT ACT

SEC. 136. APPLICATION.

(a) IN GENERAL.—Each Head Start agency or local educational agency desiring a grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) * * *

* * * * * * *

(4) a plan for the development of a supportive services team of family service coordinators to—

(A) * * *

* * * * * * *

(C) coordinate a family outreach and support program, including a plan for involving parents in the management of the program assisted under this subtitle, in cooperation with parental involvement efforts undertaken pursuant to the Follow Through Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), and the

[Education of the Handicapped Act of 1975] *Individuals with Disabilities Education Act*;

* * * * * * *

(10) a plan to ensure the smooth transition of children served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), [Education of the Handicapped Act of 1975] *Individuals with Disabilities Education Act*, and comparable early childhood development programs to elementary schools;

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REHABILITATION ACT OF 1973

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TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

* * * * * * *

STATE PLANS

SEC. 101. (a) In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

(1) * * *

* * * * * * *

(11) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for individuals with handicaps, veterans programs, community mental health programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health and Human Services, the Department of Veterans Affairs, and other Federal, State, and local public agencies providing services related to the rehabilitation of individuals with handicaps (specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, and the Carl D. Perkins Vocational Education Act);

* * * * * * *

TITLE III—SUPPLEMENTARY SERVICES AND FACILITIES

PART A—CONSTRUCTION AND TRAINING PROGRAMS

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TRAINING

SEC. 304. (a) * * *

* * * * * * *

(d)(1) * * *

(2) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

(A) * * *

* * * * * * *

(D) provide assurances that (i) to the extent appropriate, the applicant shall provide for the training or retraining (including short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and (ii) funds for such in-service training shall be provided under this section only through funds appropriated under the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*; and

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PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES

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SPECIAL DEMONSTRATION PROGRAMS

SEC. 311. (a) * * *

* * * * * * *

(c)(1) * * *

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(3) The Commissioner shall assure that projects shall be coordinated with other projects assisted under section 626 of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*.

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TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS

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PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE HANDICAPS

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STATE PLAN

SEC. 634. (a) * * *

(b) Each such plan supplement shall—

(1) * * *

(2)(A) specify results of the needs assessment conducted as required by title I of this Act of individuals with severe handicaps as such assessment identifies the need for supported employment services, including the coordination and use of the information within the State relating to section 618(b)(3) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*; and

* * * * * * *

(3) provide assurances that—

(A) * * *

* * * * * * *

(D) such services will be coordinated with the evaluation results, the individual written rehabilitation plan or education plan as required under section 102 of this Act, section 123 of the Developmental Disabilities Act of 1984, and sections 612(4) and 614(a)(5) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, respectively;

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TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

PART A—COMPREHENSIVE SERVICES

* * * * * * *

STATE PLANS

SEC. 705. (a) In order to be eligible for grants under this part, a State shall submit to the Commissioner a State plan for a three-year period for providing comprehensive services for independent living to individuals with severe handicaps, and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

(1) * * *

* * * * * * *

(4) provide assurances that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each individual with handicaps eligible for independent living services under this part; (B) such services will be provided in accordance with such program; and (C) that such program will be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 102 of this Act, the Developmental Disabilities Assistance and Bill of Rights Act, and sections 612(4) and 614(a)(5) of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, respectively;

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TRIBALLY CONTROLLED SCHOOLS ACT OF 1988

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SEC. 5204. GRANTS AUTHORIZED.

(a) IN GENERAL.—

(1) * * *

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(3)(A) * * *

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(C) If funds allocated to a tribally controlled school under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

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SEC. 5205. COMPOSITION OF GRANTS.

(a) IN GENERAL.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) * * *

* * * * * * *

(3) the total amount of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, and

* * * * * * *

(b) SPECIAL RULES.—

(1) * * *

(2) In the allocation of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, and

* * * * * * *

(3)(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965,

(ii) the [Education of the Handicapped Act] *Individuals with Disabilities Education Act*, or

* * * * * * *

SECTION 640 OF THE HEAD START ACT

ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

SEC. 640. (a) * * *

* * * * * * *

(d) The Secretary shall establish policies and procedures designed to assure that for fiscal year 1982 and thereafter no less than 10 percent of the total number of enrollment opportunities in Head Start programs in each State shall be available for children with disabilities (as defined in [paragraph (1) of section 602 of the Education of the Handicapped Act] *section 602(a)(1) of the Individuals with Disabilities Education Act*) and that services shall be provided to meet their special needs.

* * * * * * *

SECTION 465 OF THE HIGHER EDUCATION ACT OF 1965

CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 465. (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) * * *

(2) Loans shall be canceled under paragraph (1) for service—

(A) * * *

* * * * * * *

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies.

For the purpose of this paragraph, the term "children with disabilities" has the meaning set forth in [section 602(1) of the Education of the Handicapped Act] *section 602(a)(1) of the Individuals with Disabilities Education Act*.

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SOCIAL SECURITY ACT

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TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

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PAYMENT TO STATES

SEC. 1903. (a) * * *

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(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to [a handicapped child] *a child with a disability* because such services are included in the child's individualized education program established pursuant to part B of the [Education of the Handicapped Act] *Individuals with Disabilities Education Act* or furnished to [a handicapped infant or toddler] *an infant or toddler with a disability* because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act.

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PROVISIONS RESPECTING INAPPLICABILITY AND WAIVER OF CERTAIN REQUIREMENTS OF THIS TITLE

SEC. 1915. (a) * * *

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(c)(1) * * *

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(5) For purposes of paragraph (4)(B), the term "habilitation services", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded—

(A) * * *

* * * * * * *

(C) does not include—

(i) special education and related services [(as defined in section 602 (16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401 (16), (17))] *(as defined in paragraphs (16) and (17) of section 602(a) of the Individuals with Disabilities Education Act)* which otherwise are available to the individual through a local educational agency; and

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